

THE  
UNREPEALED GENERAL ACTS.

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GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

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THE  
UNREPEALED GENERAL ACTS  
OF  
THE GOVERNOR GENERAL IN COUNCIL:

WITH  
CHRONOLOGICAL TABLE OF ALL UNREPEALED ACTS, NOTES AND AN INDEX.

— — —  
From 1887 to 1897, both inclusive.

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VOL. IV.

FOURTH EDITION.

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1909

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## PREFACE.

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THIS, the fourth volume of the fourth edition of the Un-repealed General Acts, has been compiled on the same lines as the three preceding volumes and contains the Acts passed during the years 1887 to 1897, both inclusive. These are printed as amended up to the 1st March, 1909.

This volume has been passed to Press by Mr. G. R. Ridge, Superintendent of the Publication Branch of the Legislative Department.

S. C. BANERJEE,  
*Legal Assistant,*  
*Legislative Department.*

CALCUTTA ;  
*The 1st March, 1909.*

# LIST OF ABBREVIATIONS USED.

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Aj. Code . . . .	For Ajmere Code.
Bal. Code . . . .	„ Baluchistan Code.
Ben. Code . . . .	„ Bengal Code.
Bom. Code . . . .	„ Bombay Code.
Bur. Code . . . .	„ Burma Code.
C. P. Code . . . .	„ Central Provinces Code.
E. B. and A. Code . . . .	„ Eastern Bengal and Assam Code.
Mad. Code . . . .	„ Madras Code.
P. and N. W. Code . . . .	„ Punjab and North-West Code.
U. P. Code . . . .	„ United Provinces Code.
Coll Stat. . . . .	„ Collection of Statutes relating to India.
Gen. R. and O. . . . .	„ General Statutory Rules and Orders.
Ben. R. and O. . . . .	„ Bengal List of Local Statutory Rules and Orders.
Bom. R. and O. . . . .	„ Bombay List of Local Rules and Orders.
C. P. R. and O. . . . .	„ Central Provinces List of Local Rules and Orders.
E. B. and A. R. and O. . . . .	„ Eastern Bengal and Assam List of Local Rules and Orders.
Mad. R. and O. . . . .	„ Madras List of Local Rules and Orders.
Punj. R. and O. . . . .	„ Punjab List of Local Rules and Orders.
U. P. R. and O. . . . .	„ United Provinces List of Local Rules and Orders.
Bur R. M. . . . .	„ Burma Rules Manual.
Brit. Enact., N. S. (Mad. and My.)	„ British Enactments in force in Native States (Southern India, Madras and Mysore) Volume.
„ „ „ (Hyd.) . . . .	„ British Enactments in force in Native States (Southern India, Hyderabad) Volume.
„ „ „ (N. I.) . . . .	„ British Enactments in force in Native States (Northern India) Volume.
„ „ „ (W. I.) . . . .	„ British Enactments in force in Native States (Western India) Volume.
„ „ „ (C. I.) . . . .	„ British Enactments in force in Native States (Central India) Volume.
„ „ „ (Raj.) . . . .	„ British Enactments in force in Native States (Rajputana) Volume.

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# CHRONOLOGICAL TABLE OF THE UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL, 1887—1897.

(The figures in column 5 refer to the pages of this Volume.)

1	2	3	4	5
Year.	No.	Short title.	Whether repealed or otherwise affected by legislation.	Where published.
1887	II	The Sea Customs Act (1878) Amendment Act, 1887. <sup>1</sup>	Rep. in part, Act XII of 1891; Act VIII of 1894; Act XII of 1896.	1
	III	The Indian Evidence Act (1872) Amendment Act, 1887. <sup>1</sup>	Declared in force in the Santhal Parganas, Reg. III of 1872, s. 3 as amended by Reg. 3 of 1899, s. 3.	3
	IV	The Indian Museum Act, 1887.	.....	Bengal Code, Vol. III.
	VI	The Indian Companies Act (1882) Amendment Act, 1887. <sup>1</sup>	.....	4
	VII	The Suits Valuation Act, 1887.	Rep. in part, Act XII of 1891.  Declared in force—  in British Baluchistan, Reg. I of 1890, s. 3;  in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	5
	IX	The Provincial Small Cause Courts Act, 1887.	Rep. in part, Act X of 1888;  Act XII of 1891.  Act IX of 1908.  U. P. Act II of 1901.  Declared in force—  in British Baluchistan, Reg. I of 1890, s. 3;  in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	10

<sup>1</sup> These titles were given by the Indian Short Titles Act, 1897 (4 of 1897), *infra*.

# UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*

1	2	3	4	5
Year.	No.	Short title.	Whether repealed or otherwise affected by legislation.	Where published.
1887	X	The Native Passenger Ships Act, 1887.	Rep. as to Pilgrim Ships Act XIV of 1895.	26
	XI	The Sindh Pishin Railway Act, 1887.	.....	Baluchistan Code.
	XII	The Bengal, N.-W. Provinces and Assam Civil Courts Act, 1887.	..	Bengal Code, Vol. I. E. B. and A. Code, Vol. I. U. P. Code, Vol. I.
	XIV	The Indian Marine Act, 1887.	S. 78 rep., Act V of 1898. Amended, Act XVII of 1888. Act I of 1899.  Declared in force—  in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	45
	XV	The Burma Military Police Act, 1887.	.....	Burma Code.
	XVI	The Punjab Tenancy Act, 1887.	.....	Punjab and N.-W. Code.
	XVII	The Punjab Land Revenue Act, 1887.	... ..	Punjab Code and N.-W. Code.  Ss. 33 to 40, 44 to 46, and 98; Ajmir Code.
	XVIII	The Allahabad University Act, 1887.	.....	70
	XIX	King of Oudh's Estate ...	.. ..	Not republished.
	XX	The Wild Birds Protection Act, 1887.	.. ...  Declared in force—  in the Santihál Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3,  in Upper Burma (except the Shan States), Act XIII of 1908, s. 4.	76

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN  
COUNCIL—*contd.*

1	2	3	4	5
Year.	No.	Short title.	Whether repealed or otherwise affected by legislation.	Where published.
1888	II	The Petroleum (Customs-duty) Act, 1888 <sup>1</sup>	Rep. in part, Act VIII of 1891.	78
	III	The Police Act, 1888 ...	S. 2 (1) amended, Act XII of 1891.  Declared in force—  in British Baluchistan, Reg. I of 1890, s. 3;  in Upper Burma (except the Shan States), Act XIII of 1898, s. 4	78
	IV	The Indian Reserve Forces Act, 1888.	Declared in force in British Baluchistan, Reg. I of 1890, s. 3.	81
	V	The Inventions and Designs Act, 1888.	Rep. in part, Act 2 of 1899.  Declared in force—  in British Baluchistan, Reg. I of 1890, s. 3;  in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	83
	VIII	The Indian Tolls Act, 1888. <sup>1</sup>	Rep. in part, Act XII of 1891.  Declared in force—  in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	112
	XI	The Indian Telegraph (Presidency-towns) Act, 1888. <sup>1</sup>	.....	113
	XII	Supplementing the Bombay and Calcutta Municipal Acts (Bom. Act 3 of 1888 and Ben. Act 2 of 1888.)	... ..	Bombay Code, Vol. I.
	XIII	The Punjab Courts Act, 1883.	.. ...	Punjab and N.-W. Code.

<sup>1</sup> These titles were given by the Indian Short Titles Act, 1907 (14 of 1907), *infra*.

# UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*

1	2	3	4	5
Year.	No.	Short title.	Whether repealed or otherwise affected by legislation.	Where published.
1888	XIV	King of Oudh's Estate ...	....	Not republished.
	XVII	The Indian Marine Act (1887) Amendment Act, 1888. <sup>1</sup>	.....	113
	XVIII	The Burma Financial Commissioner's Act, 1888. <sup>2</sup>	.....	Burma Code.
1889	I	Metal Tokens Act, 1889.	S. 7 rep., Act V of 1898. Declared in force— in Upper Burma (except the Shan States) Act XIII of 1898, s. 4.	114
	II	The Measures of Length Act, 1889.	Declared in force in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	116
	IV	The Indian Merchandise Marks Act, 1889.	Rep. in part and amended, Act IX of 1891. Act XVI of 1904.  Declared in force in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	118
	V	<sup>3</sup> The Coroners (Madras) Act, 1889.	.....	Ben. Code, Vol. I. Bom. Code, Vol. I. Mad. Code, Vol. I
	IV	The Probate and Administration Act, 1889.	Rep. in part, Act XII of 1891. " " Act XIII of 1898, s. 18. " " Act II of 1899.	130

<sup>1</sup>This title was given by the Indian Short Titles Act, 1892 (14 of 1892).

<sup>2</sup>This title was given by the Burma Laws Act, 1898 (13 of 1898).

<sup>3</sup>This title was given by the Repealing and Amending Act, 1901 (11 of 1901),

# UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*

1	2	3	4	5
Year.	No.	Short title.	Whether repealed or otherwise affected by legislation.	Where published.
1889	VI— <i>contd.</i>	Probate and Administration Act, 1889— <i>contd.</i>	Rep. in part, Act XI of 1899, s. 4.  Vir. rep. in pt. (s. 8), Act 8 of 1903.  Declared in force— in the Santhal Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3 ;  in Upper Burma, except the Shan States' (except s. 21), Act XIII of 1898, s. 4.	
1889	VII	The Succession Certificate Act, 1889.	S. 1 (3) rep. in pt. Act XIII of 1898, s. 18.  S. 1 (4) restricted, Act VII of 1901, s. 5.  Declared in force—  in the Santhal Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3 ;  in the Angul District, Reg. I of 1894, s. 3 ;  in British Baluchistan, Reg. I of 1890, s. 3 ;  in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	137
	VIII	The Sea Customs Act, (1878) Amendment Act, 1889. <sup>1</sup>	Rep. in part, Act VIII of 1894.	150
	XIII	The Cantonments Act, 1889.	Rep. in part, Act XII of 1896 ;  Act V of 1898.	152

<sup>1</sup> This title was given by the Indian Short Titles Act 1897 (14 of 1897), Genl. Acts, Vol. IV.



UNREPEALED ACTS OF THE GOVERNOR GENERAL IN  
COUNCIL—*contd.*

1	2	3	4	5
Year.	No.	Short title.	Whether repealed or otherwise affected by legislation.	Where published.
1889	XIII— <i>contd.</i>	Cantonments Act, 1889— <i>contd.</i>	Rep. in part, Act 13 of 1893, s. 18.  Rep. in part and amended, Act XII of 1891.  Vir. rep. in part, Act XII of 1894, s. 5.  Amended, Act I of 1891, s. 11.  Act XV of 1897.  Act I of 1903.  Act V of 1909.  Declared in force— in British Baluchistan (with additions), Reg. I of 1890, ss. 3, 4, as amended by Reg. V of 1890, s. 45;  in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	
	XV	The Indian Official Secrets Act, 1889.	Amended Act V of 1904.  Declared in force— in British Baluchistan, Reg. I of 1890, s. 3;  in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	171
	XVI	The Central Provinces Land-revenue Act, 1889.	.. ..	Central Provinces Code.
	XX	The Indian Lunatic Asylums Act (1858) <sup>1</sup> Amendment Act, 1889.	Rep. in part, Act XII of 1891.  Declared in force in the Santhál Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3.	176
1890	I	The Revenue Recovery Act, 1890.	Rep. in part, Act XIII of 1898, s. 18.	178

<sup>1</sup> This title was given by the Indian Short Titles Act, 1897 (14 of 1897), Genl. Acts, Vol. V.

# UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*

1	2	3	4	5
Year.	No.	Short title.	Whether repealed or otherwise affected by legislation.	Where published.
1890	I— <i>contd.</i>	The Revenue Recovery Act, 1890— <i>contd.</i>	Declared in force—  in* the Santhál Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3;  in the Angul District, Reg. I of 1894, s. 3;  in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	
	II	The Probate and Administration Act, 1890. <sup>1</sup>	S. 11 (2) rep., Act XII of 1891.  Ss. 9 to 16 declared in force in the Santhál Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3.	181
	III	The Indian Steam-ships Law Amendment Act, 1890. <sup>1</sup>	Rep. in part, Act XIII of 1891, s. 3.  Rep. in part and amended, Act XII of 1891.	189
	V	The Forest Act, 1890, ss. 1-14.	S. 21 rep., Act XII of 1891.  Ss. 15 to 22 rep., Burma Act IV of 1902.  Ss. 1 (1), 2 and 4 declared in force in the Santhál Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3.	193
	VI	The Charitable Endowments Act, 1890.	Rep. in part, Act XIII of 1898, s. 18.  Declared in force—  in the Santhál Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3.	197

<sup>1</sup> This title was given by the Indian Short Titles Act, 1897 (14 of 1897), Genl. Acts, Vol. IV.

# UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*

1	2	3	4	5
Year.	No.	Short title.	Whether repealed or otherwise affected by legislation.	Where published.
1890	VI <i>—contd.</i>	The Charitable Endowments Act, 1890— <i>contd.</i>	Declared in force— in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	
	VII	The Comptoir National d'Escompte de Paris Act, 1890.	.....	Not republished.
	VIII	The Guardians and Wards Act, 1890.	Rep. in part, Act XIII of 1898, s. 18.  " " Act VI of 1900, s. 48.  " " s. 53, Act V of 1908.  " " (in Central Provinces), Act XXIV of 1899.  Declared in force— in the Santhál Parganas, Reg. III of 1872, s. 3, as am. by Reg. III of 1899, s. 3 ;  in the Angul District Reg. I of 1894, s. 3 ;  in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	202
	IX	The Indian Railways Act, 1890.	Rep. in part, Act XIII of 1898, s. 18.  Rep. in part and amended, Act IX of 1896.  Declared in force—  in the Santhál Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3 ;  in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	232

# UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*

1	2	3	4	5
Year.	No.	Short title.	Whether repealed or otherwise affected by legislation.	Where published.
1890	X	The Press and Registration of Books Act, (1867) Amendment Act, 1890. <sup>1</sup>	Rep. in part, Act XII of 1891.  Declared in force in the Santhal Parganas, Reg. III of 1872, s. 3, as amended by III of 1899, s. 3.	286
	XI	The Prevention of Cruelty to Animals Act, 1890. <sup>2</sup>	Declared in force—  in the Santhal Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3;  in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	289
	XIII	The Excise (Malt Liquors) Act, 1890, ss. 1 and 9.	Ss. 2-5 rep., Act XII of 1896.  Declared in force in the Angul District, Reg. I of 1894, s. 3.  Ss. 1, 6, 7 and 8 declared in force in the Santhal Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3.  S. 9 declared in force in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	292  Ss. 1, 6 to 8, Bengal Code, Vol. I, p. 518.
	XVI	The Births, Deaths and Marriages Registration Act (1886) Amendment Act, 1890. <sup>1</sup>	Declared in force in the Santhal Parganas, Reg. III of 1872, s. 3, as am. by Reg. III of 1899, s. 3.	293
	XIX	The Indian Salt Act (1882) Amendment Act, 1890. <sup>1</sup>	Rep. in part, Act XII of 1891.	294

<sup>1</sup> These titles were given by the Indian Short Titles Act, 1897 (14 of 1897), Genl. Acts, Vol. IV.

<sup>2</sup> S. 1 of Act II, 1890, empowers Local Governments to direct, by notification in the Gazette, that the whole or any part of any other enactment for the prevention of cruelty to animals shall (until the Local Government by notification, otherwise directs) cease to have effect in any local area to which any part of the Act of 1890 has been extended by notification. Such Notifications are not noted in these Tables.

**UNREPEALED ACTS OF THE GOVERNOR GENERAL IN  
COUNCIL—*contd.***

1	2	3	4	5
Year.	No.	Short title.	Whether repealed or otherwise affected by legislation.	Where published.
1890	XX	The N.-W. Provinces and Oudh Act, 1890.	.....	U. P. Code, Vol. I.
1891	I	<sup>1</sup> The Cattle-trespass Act (1871) Amendment Act, 1891.	The Act, except ss. 10, 11 and 13, declared in force in the Santhál Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3.	296
	II	<sup>1</sup> The Indian Christian Marriage Act (1872) Amendment Act, 1891.	Rep. in part, Act XII of 1891.  Declared in force in the Santhál Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3.	301
	III	<sup>1</sup> The Indian Evidence Act (1872) Amendment Act, 1891.	Rep. in part, Act V of 1898 ; Act V of 1899, s. 5.  Declared in force in the Santhál Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3.	303
	VI	<sup>1</sup> The Indian Merchant Shipping Law Amendment Act, 1891.	Rep. in part, Act XII of 1891.	305
	VII	<sup>1</sup> The Indian Registration of Ships Act (1841) Amendment Act, 1891.	Rep. in part and amended, Act XII of 1891.	313
	VIII	<sup>1</sup> Easements (extending Act V of 1882).	.....	Bombay Code, Vol. I U. P. Code, Vol. I.
	IX	<sup>1</sup> The Indian Merchandise Marks and Sea Customs Acts Amendment Act, 1891.	.....	316
	X	<sup>1</sup> The Indian Criminal Law Amendment Act, 1891.	Ss. 2, 3 rep., Act V of 1898. Declared in force in the Santhál Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3.	319
	XI	The Indian Factories Act, 1891.	.....	319

These titles were given by the Indian Short Titles Act, 1897 (14 of 1897), Genl. Acts, Vol. IV.

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN  
COUNCIL—*contd.*

1	2	3	4	5
Year.	No.	Short title.	Whether repealed or otherwise affected by legislation.	Where published.
1891	XII	The Amending Act, 1891.	<p>Re p. in part, Act IX of 1894;  Act XII of 1896;  Act X of 1897;  Act V of 1898.</p> <p>Act XI of 1898, s.100;</p> <p>Act XIII of 1898, s. 18.</p> <p>Act II of 1899;</p> <p>Act VIII of 1899;</p> <p>Act XIII of 1899;</p> <p>Act XXIV of 1899.</p> <p>Act III of 1900;</p> <p>Act VI of 1900, s. 48;</p> <p>Act VI of 1901;</p> <p>Act I of 1903;</p> <p>Act XVI of 1903;</p> <p>Act II of 1904;</p> <p>Act V of 1908;</p> <p>Act XVI of 1908;</p> <p>U. P. Act II of 1901;</p> <p>Bur. Act IV of 1902;</p> <p>Punj. Act II of 1905.</p> <p>Vir. rep., Act XV of 1903.</p> <p>Vir. rep., Act XII of 1894, s. 2.</p>	326

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN  
COUNCIL—*contd.*

1	2	3	4	5
Year.	No.	Short title.	Whether repealed or otherwise affected by legislation.	Where published.
1891	XII— <i>contd.</i>	The Amending Act, 1891— <i>contd.</i>	Vir. rep., Reg. I of 1899.  Vir. rep., Reg. I of 1900.  Vir. rep., Reg. IV of 1901, s. 16.  Declared in force in the Santhál Parganas Reg. III of 1872, s 3, as amended by Reg. III of 1899, s. 3.	
	XIII	<sup>1</sup> The Inland Steam-vessels Act (1884) Amendment Act, 1891.	.....	338
	XIV	The Oudh Courts Act, 1897.	... ..	U.P. Code, Vol. I.
	XV	The Moorshedabad Act, 1891.	.....	Not republished.
	XVI	The Colonial Courts of Admiralty (India) Act, 1891.	Rep. in part, Act VI of 1900, s. 48.  Amended Act VI of 1900, s. 47.	342
	XVII	The Deck and Load Lines Act, 1891.	.....	344
	XVIII	The Bankers' Books Evidence Act, 1891.	Amended, Act I of 1893.  Act XII of 1900.  Declared in force—  in the Santhál Parganas, Reg. III of 1872, s.3, as amended by Reg. III of 1899, s. 3 ;  in Upper Burma (except Shan States) Act XIII of 1898, s. 4.	349
	XX	The Punjab Municipal Act, 1891.	.....	Punj. and N.-W. Code.

<sup>1</sup> This title was given by the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN  
COUNCIL—*contd.*

1	2	3	4	5
Year.	No.	Short title.	Whether repealed or otherwise affected by legislation.	Where published.
1892	II	<sup>1</sup> The Marriages Validation Act, 1892.	Declared in force—  in the Santhál Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1890, s. 3 ;  in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	351
	IV	<sup>2</sup> The Court of Wards Act, (Bengal) Amendment Act, 1892.	.....	Bengal Code, Vol. I. E. B. and A. Code, Vol. I.
	V	The Bengal Military Police Act, 1892.	.....	Bengal Code, Vol. IV.  E. B. and A. Code, Vol. I.
	VI	<sup>1</sup> The Indian Limitation Act and Civil Procedure Code Amendment Act, 1892.	Rep., save s. 5, Acts 5 and 9 of 1908.  S. 5 spent.	Not republished.
	VII	The Madras Civil Courts Act, 1893.	.....	Madras Code, Vol. I.
	VIII	The Lansdowne Bridge Act, 1892.	.....	353
	X	The Government Management of Private Estates Act, 1892.	Rep in part, Act XIII of 1898, s. 18.  Declared in force—  in the Santhál Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1890, s. 3 ;  in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	354

<sup>1</sup> These titles were given by the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

<sup>2</sup> This title was given by the Repealing and Amending Act, 1897 (5 of 1897), s. 4, E. B. & A. Code, Vol. I.



# UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*

1	2	3	4	5
Year.	No.	Short title.	Whether repealed or otherwise affected by legislation.	Where published.
1893	I	The Bankers' Books Evidence Act, 1893.	Declared in force— in the Santhál Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3.	357
	II	The Porahat Estate Act, 1893.	.....	Bengal Code, Vol. IV.
	III	The Government Tenants (Punjab) Act, 1893.	.....	Punjab and N. W. Code.
	IV	The Partition Act, 1893	Declared in force in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	357
	VI	Sir Dinshaw Manockjee Petit.	.....	Not republished.
	XI	The Tributary Mahals of Orissa Act, 1893.	.....	Bengal Code, Vol. IV.
1894	I	The Land Acquisition Act, 1894.	Applied to the Calcutta Municipality, with modifications, Ben. Act III of 1899, s. 557.  Declared in force—  in the Santhál Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3;  in Upper Burma (except the Shan States), Act XII of 1898, s. 4.	363
	III	<sup>1</sup> The Indian Criminal Law Amendment Act, 1894.	Ss. 1 to 4 rep., Act V of 1898.  Declared in force—  in the Santhál Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3.	381
	VIII	The Indian Tariff Act, 1894.	Amended Act III of 1896.  „ Act XIV of 1899.	384

<sup>1</sup> This title was given by the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN  
COUNCIL—*contd.*

1	2	3	4	5
Year.	No.	Short title.	Whether repealed or otherwise affected by legislation.	Where published.
1894	VIII— <i>contd.</i>	The Indian Tariff Act, 1894— <i>contd.</i>	Amended Act VIII of 1902.  Act IX of 1903.  Act XII of 1903.  Act I of 1906.  Act II of 1908.  S. 8 B. revived Act XI of 1904.  Declared in force— in the Santhál Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3.	
	IX	The Prisons Act, 1894.	Rep. in part, Act XIII of 1898 s. 18.  Declared in force— in the Santhál Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3;  in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	418
	XII	The Indian Articles of War Amendment Act, 1894.	Rep. in part, Act XIII of 1904.	440
	XIII	The Amending (Army) Act, 1894.	Rep. in part, Act I of 1903.	471
	XV	The Engineer's Certificates Validation Act, 1894.	.....	Bombay Code, Vol. I.
1895	I	The Presidency Small Cause Courts Act, 1895.	Rep. in part, Act of 1903.	473
	II	The Burma Boundaries Act Amendment Act, 1895.	... ..	Burma Code.
	III	<sup>1</sup> The Indian Criminal Law Amendment Act, 1895.	S. 5 rep., Act 4 of 1909. S. 6 rep., Act 5 of 1900. S. 7 rep., Act 6 of 1898.	477

<sup>1</sup> This title was given by the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN  
COUNCIL—*contd.*

1	2	3	4	5
Year.	No.	Short title.	Whether repealed or otherwise affected by legislation.	Where published.
1895	III — <i>contd.</i>	The Indian Criminal Law Amendment Act, 1895— <i>contd.</i>	Declared in force—  in the Santhál Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3.	
	VI	The Dekkhan Agriculturists' Relief Act, 1895.	.....	Bombay Code, Vol. I.
	VII	<sup>1</sup> The Punjab Laws Act Amendment Act, 1895.	.....	Punjab and N. W. Code.
	VIII	<sup>1</sup> The Police Act (1861) Amendment Act, 1895.	Rep. in part (in Rangoon), Bur. Act IV of 1899, s. 2 (when notified).  Portions extended to Calcutta and Suburbs, with modifications. Ben. Act I of 1898.  Declared in force—  in the Santhál Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3.	483
	X	The Indian Railway Companies Act, 1895.	Declared in force in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	489
	XI	<sup>2</sup> The Pegu and Tenasserim Validation Act, 1895.	.....	Burma Code.
	XII	The Indian Companies (Memorandum) of Association Act, 1895.	Declared in force in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	491
	XIV	The Pilgrim Ships Act, 1895.	... ..	497
	XV	The Crown Grants Act, 1895.	Declared in force in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	512
	VI	The Amending Act, 1895	.....	Bombay Code, Vol. I.

<sup>1</sup> These titles were given by the Indian Short Titles Act, 1898 (14 of 1897), *infra*.  
<sup>2</sup> This title was given by the Burma Laws Act, 1898 (XIII of 1898), s. 17, Bur. Code.

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN  
COUNCIL—*contd.*

1	2	3	4	5
Year.	No	Short title.	Whether repealed or otherwise affected by legislation.	Where published.
1895	XVIII	<sup>1</sup> The Lower Burma Villages and Towns Law Amendment Act, 1895.	.. ..	Burma Code.
	XIX	<sup>2</sup> The Punjab Courts (Amendment) Act, 1895.	.. .	Punjab and N. W. Code.
	XX	Ex-King Thebaw's Act, 1895.	.....	Not republished.
1896	II	The Cotton-duties Act, 1896.	Amended, Act VIII of 1896, s. 3 (2).	515
	III	<sup>3</sup> The Indian Tariff Act (1894) Amendment Act, 1896.	Declared in force in the Santhal Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3.	528
	VI	<sup>3</sup> The Indian Penal Code Amendment Act, 1896.	Declared in force in the Santhal Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3.	528
	VIII	The Inland Bonded Warehouses Act, 1896.	.....	529
	IX	<sup>3</sup> The Indian Railways Act (1890) Amendment Act, 1896.	Declared in force in the Santhal Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3.	533
	X	The Indian Volunteers Act Amendment Act, 1896.	Declared in force in the Santhal Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3.	534
	XI	<sup>3</sup> The Legal Practitioners Act, 1896.	.....	537
	XII	The Excise Act, 1896 ...	.. ..	Ajmir Code. Baluchistan Code Burma Code.

<sup>1</sup> This title was given by the Burma Laws Act, 1898 (XIII of 1898), s. 17, Bur. Code.<sup>2</sup> This title was given by the Repealing and Amending Act, 1908 (1 of 1908), Genl. Acts, Vol. V.<sup>3</sup> These titles were given by the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

# UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*

1	2	3	4	5
Year.	No.	Short title.	Whether repealed or otherwise affected by legislation.	Where published.
1896	XII — <i>contd.</i>	Excise Act, 1896— <i>contd.</i>	.....	Central Provinces Code.
				Coorg Code.
				Punjab and N.-W. Code.
				U. P. Code, Vol. I.
	XVII	<sup>1</sup> The Punjab Land Revenue (Amendment) Act, 1896.	.....	Punjab and N.-W. Code.
	XVIII	<sup>1</sup> The Punjab Municipal (Amendment) Act, 1896.	.....	Ditto.
	XX	The Sindh Incumbered Estates Act, 1896.	.....	Bombay Code, Vol. I.
1897	I	<sup>2</sup> The Public Servants (Inquiries) Act (1850) Amendment Act, 1897.	Declared in force in the Arakan Hill District, Reg. IX of 1874, s. 3, as amended by Act XIII of 1898, s. 16.	539
	II	The Criminal Tribes Act, Amendment Act, 1897.	Rep. in part, Act I of 1903.	540
	III	The Epidemic Diseases Act, 1897.	Rep. in part, Act XIII of 1898, s. 18.  Declared in force—  in the Santhal Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3;  in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	543
	IV	The Indian Fisheries Act, 1897.	.....	545

<sup>1</sup> These titles were given by the Repealing and Amending Act, 1903 (1 of 1903), s. 2.

<sup>2</sup> This title was given by the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN  
COUNCIL—*contd.*

1	2	3	4	5
Year.	No.	Short title.	Whether repealed or otherwise affected by legislation.	Where published
1897	V	The Amending Act, 1897 .	So much of s. 2 and Schs. 1 and 2 as relates to Act I of 1882, and Ben. Act I of 1889 rep. Act VI of 1901. Rep. in part, Act I of 1903.	548
	VI	The Negotiable Instruments Act Amendment Act, 1897.	.....	554
	VIII	The Reformatory Schools Act, 1897.	S. 30 rep., Act III of 1900. Declared in force— in the Santhál Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3. in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	557
	IX	The Provident Funds Act, 1897.	Rep. in part, Act XIII of 1898, s. 18. Amended, Act IV of 1903. Declared in force in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	567
	X	The General Clauses Act, 1897.	Rep. in part and amended, Act I of 1903. Declared in force— in the Santhál Parganas, Reg. III of 1872, s. 3, as amended by Reg. III of 1899, s. 3. in the Chittagong Hill Tracts, Reg. I of 1900, s. 4. in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	571

# UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*concl'd.*

1	2	3	4	5
Year.	No.	Short title.	Whether repealed or otherwise affected by legislation.	Where published.
1897	XII	The Local Authorities' (Emergency Loans) Act, 1897.	Declared in force in Upper Burma (except the Shan States), Act XIV of 1898, s. 4.	585
	XIV	The Indian Short Titles Act, 1897.	Rep. (as to Act XVI of 1896), Act VI of 1898;  (as to Act XIV of 1890), Act VIII of 1899;  (as to Act XV of 1896), Act XIII of 1899;  (as to Act V of 1866), Act II of 1900.  Declared in force in Upper Burma (except the Shan States), Act XIII of 1898, s. 4.	586
	XV	The Cantonments Act, 1897.	.....	597
	XVI	The Oudh Courts Act (1891) Amendment Act, 1898.	.....	United Provinces Code, Vol. I.

THE  
UNREPEALED GENERAL ACTS

OF

THE GOVERNOR GENERAL IN COUNCIL.

1887-1897.

ACT No. II OF 1887.<sup>1</sup>

[14th January, 1887.]

An Act to amend the Sea Customs Act, 1878, \* \* \* \*

VIII of 1878. WHEREAS it is expedient to amend the Sea Customs Act, 1878, \* \* \* ;  
It is hereby enacted as follows :—

*Sea Customs Act, 1878.*<sup>3</sup>

VIII of 1878. 1. (1) In clause (b) of the second paragraph of section 144 of the <sup>3</sup> Sea Customs Act, 1878, there shall be inserted after the word “ unless ” the word “ either ” and after the word “ destination ” the following, namely :—  
Amendment of section 144.

“ or the delivery of the spirit into a warehouse appointed in this behalf by the Local Government having authority at that port.”

(2) In the third paragraph of the same section of the same Act the following shall be substituted for the word “ paid, ” namely :—

“ so paid or the spirit so delivered.”

<sup>1</sup> Short title, “ The Sea Customs Act (1878) Amendment Act, 1887,” see the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1887, Extraordinary, dated 10th January, 1887, p. 1 ; and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 4 and 10.

This Act, so far as it amends the Sea Customs Act, 1878 (8 of 1878), is in force in—

(1) Upper Burma (except the Shan States) as being part of the original Act declared in force there by the Burma Laws Act, 1898 (13 of 1898), see s. 4 and the First Schedule, Bur. Code.

(2) Angul District as being part of the original Act declared in force there by the Angul District Regulation, 1894 (1 of 1894), s. 3, Ben. Code, Vol. I.

<sup>2</sup> The words “ The Excise Act, 1881, and the Indian Tariff Act, 1882,” in the title and preamble have been omitted, as so much of this Act as relates to the Excise Act, 1881, was repealed by the Excise Act, 1896 (12 of 1896), U. P. Code, Vol. I ; and the Tariff Act, 1882 (11 of 1882), was repealed by the Tariff Act, 1894 (8 of 1894) *infra*.

<sup>3</sup> Genl. Acts, Vol. II.



Amendment  
of section  
146.

2. In section 146 of the same Act, for the word "shall," in each of the two places where that word occurs, the word "may" shall be substituted.

Amendment  
of section  
148.

3. (1) To section 148 of the same Act the following words shall be prefixed, namely :—

"Notwithstanding anything in the <sup>1</sup> Indian Tariff Act, 1882."

XI of 1882.

(2) To the same section of the same Act the following shall be added, namely :—

"Provided that the Local Government may authorize the import of such spirit without the payment of that duty at the port of importation when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the excise duty thereon is to be paid on the removal of the spirit from a warehouse so appointed."

Amendment  
of section  
151.

4. (1) To section 151 of the same Act the following words shall be prefixed, namely :—

"Notwithstanding anything in the <sup>1</sup> Indian Tariff Act, 1882."

XI of 1882

(2) After the same section of the same Act the following shall be added, namely :—

"Provided that the Local Government may authorize the import of such spirit without the payment of the differential duty at the port of importation when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the differential duty is to be paid on the removal of the spirit from a warehouse so appointed."

5 & 6. [*Amending Excise Act, 1881.*] *Rep. by the Excise Act, 1896 (XII of 1896).*

7. [*Repeal of portion of preamble, Act XI of 1882.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

8. [*Addition to s. 7, Act XI of 1882.*] *Rep. by the Tariff Act, 1894 (VIII of 1894).*

9. [*Amendment of second schedule, Act XI of 1882.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

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<sup>1</sup> See now the Tariff Act, 1894 (8 of 1894), *infra*.

ACT No. III of 1887.<sup>1</sup>

[14th January, 1887.]

An Act to amend the <sup>2</sup> Indian Evidence Act, 1872.

WHEREAS it is expedient that Revenue-officers should not be compelled to say whence they obtain information with respect to offences against the public revenue ; It is hereby enacted as follows :—

1 of 1872. 1. The following section shall be substituted for section 125 of the <sup>3</sup> Indian Evidence Act, 1872, namely :—

New section substituted for section 125 of the Evidence Act. Information as to commission of offences.

“ 125. No Magistrate or Police-officer shall be compelled to say whence he got any information as to the commission of any offence, and no Revenue-officer shall be compelled to say whence he got any information as to the commission of any offence against the public revenue.

*Explanation.*—‘ Revenue-officer ’ in this section means any officer employed in or about the business of any branch of the public revenue.”

<sup>1</sup> Short title, “ The Indian Evidence Act (1872) Amendment Act, 1887,” see the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1886, Pt. V, p. 793 ; for Report of the Select Committee, see *ibid.*, 1887, Pt. IV, p. 7 ; and for Proceedings in Council, see *ibid.*, 1886, Supplement, pp. 1132 and 1155 and *ibid.*, 1887, Pt. VI, p. 11.

This Act is in force in Upper Burma (except the Shan States) as being part of the original Act, 1 of 1872, declared in force there by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

Act 3 of 1887 had been previously extended there under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), see Burma Gazette, 1888, Pt. I, p. 362, and Gazette of India, 1888, Pt. I, p. 371.

It has been declared in force in the Santhál Parganas, under s. 3 of the Santhál Parganas Settlement Regulation (3 of 1872) as amended by the Santhál Parganas Justice and Laws Regulation, 1899 (3 of 1899), Bengal Code, Vol. I, see Calcutta Gazette, 1895, Pt. I, p. 310.

As being part of Act 1 of 1872, it was declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1890 (1 of 1890), Bal. Code : in the Angul District by the Angul District Regulation, 1894 (1 of 1894) ; in the Kachin Hill-tracts, as regards Hill-tribes, by the Kachin Hill District Regulation, 1895 (1 of 1895) ; in the Chin Hills as regards Hill-tribes, by the Chin Hills Regulation, 1896 (5 of 1896), Bur. Code ; in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), E. B. & A. Code, Vol. I ; and in the Hill District of Arakan by the Arakan Hill District Laws Regulation, 1874 (9 of 1874), Bur. Code.

<sup>2</sup> Genl. Acts, Vol. II.

ACT No. VI of 1887.<sup>1</sup>

[11th February, 1887.]

An Act to amend the <sup>2</sup> Indian Companies Act, 1882.

WHEREAS it is expedient to amend the <sup>3</sup> Indian Companies Act, 1882, in VI of 1882.  
manner hereinafter appearing ; It is hereby enacted as follows :—

1. After section 200 of the Indian Companies Act, 1882,<sup>3</sup> the following VI of 1882.  
section shall be inserted, namely :—

“200A. (1) In the distribution of the assets of any company being wound up under this Act, there shall be paid in priority to all other debts—

“ (a) all revenue, taxes, cesses and rates, whether payable to Her Majesty or to a local authority, due from the company at the date of the commencement of the winding-up, and having become due and payable within the twelve months next before that date ;

“ (b) all wages or salary of any clerk or servant in respect of services rendered to the company within the two months next before the commencement of the winding-up, not exceeding one thousand rupees for each clerk or servant ; and

“ (c) all wages of any labourer or workman, not exceeding five hundred rupees for each, whether payable for time or piece-work, in respect of services rendered to the company within the two months next before the commencement of the winding-up.

“ (2) The foregoing debts shall rank equally among themselves, and shall be paid in full, unless the assets of the company are insufficient to meet them, in which case they shall abate in equal proportions among themselves.

“ (3) Subject to the retention of such sums as may be necessary for the cost of administration or otherwise, the liquidator or official liquidator shall discharge the foregoing debts forthwith, so far as the assets of the company

<sup>1</sup> Short title, “ The Indian Companies Act (1882) Amendment Act, 1887,” see the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1886, Pt. V, p. 695 ; for Report of the Select Committee, see *ibid.* 1887, Pt. IV, p. 14 ; and for Proceedings in Council, see *ibid.* 1886, Supplement, pp. 1010 and 1020, and *ibid.* 1887, Pt. VI, p. 19.

This Act is in force in Upper Burma (except the Shan States) as being part of the original Act, 6 of 1882, declared in force there by s. 4 and the First Schedule to the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

Act 6 of 1887 had been previously extended there, under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), see Burma Gazette, 1888, Pt. I, p. 362, and Gazette of India, 1888, Pt. I, p. 371.

As being part of Act 6 of 1882, it has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), to British Baluchistan, see Gazette of India, 1895, Pt. II, p. 9.

<sup>2</sup> Genl. Acts, Vol. III.

## (Sec. 1. Part I.—Suits relating to Land.)

are and will be sufficient to meet them, as and when the assets come into the hands of the liquidator or official liquidator.”

ACT No. VII of 1887.<sup>1</sup>

[11th February 1887.]

An Act to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto.

WHEREAS it is expedient to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto ; It is hereby enacted as follows :—

1. This Act may be called the Suits Valuation Act, 1887.

Title.

## PART I.

## SUITS RELATING TO LAND.

2. This Part shall extend to such local areas, and come into force therein on such dates, as the Governor General in Council, by notification in the Gazette of India, directs.<sup>2</sup>

Extent and commencement of Part I.

3. (1) The Local Government may, with the previous sanction of the Governor General in Council, make rules<sup>3</sup> for determining the value of land for purposes of jurisdiction in the suits mentioned in the <sup>4</sup> Court-fees Act, VII of 1870, section 7, paragraphs v and vi, and paragraph x, clause (d).

Power for Local Government to make rules determining value of land for jurisdictional purposes.

(2) The rules may determine the value of any class of land, or of any interest in land, in the whole or any part of a local area and may prescribe different values for different places within the same local area.

4. Where a suit mentioned in the <sup>4</sup> Court-fees Act, 1870, section 7, paragraph iv, or Schedule II, article 17, relates to land or an interest in land of which the value has been determined by rules under the last foregoing section,

Valuation of relief in certain suits relating to land not to

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1886, Pt. V, p. 791 ; for Report of the Select Committee, see *ibid*, 1887, Pt. IV, p. 18 and for Proceedings in Council, see *ibid*, 1886, Supplement, pp. 181 and 1155, and *ibid*, 1887, Pt. VI, pp. 16 and 21.

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), see s. 4 and the First Schedule, Bur. Code.

It had previously been extended there by notification under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), Genl. Acts, Vol. II, see Burma Gazette, 1888, Pt. I, p. 362, and Gazette of India, 1888, Pt. I, p. 371.

It has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1890 (1 of 1890), Bal. Code.

<sup>2</sup> Part I of the Act has, under s. 2, been declared to extend to the Punjab, and to come into force therein on the 1st day of March, 1889, see Gazette of India, 1889, Pt. I, p. 107.

<sup>3</sup> For rules issued under this section in the Punjab, see Punjab List of Local R. & O.

<sup>4</sup> Genl. Acts, Vol. II.

## (Part I.—Suits relating to Land. Part II.—Other Suits.)

exceed the value of the land.

the amount at which for purposes of jurisdiction the relief sought in the suit is valued shall not exceed the value of the land or interest as determined by those rules.

Making and enforcement of rules.

5. (1) The Local Government shall, before making rules under section 3, consult the High Court with respect thereto.

(2) A rule under that section shall not take effect till the expiration of one month after the rule has been published in the local official Gazette.

Repeal of section 14 of the Madras Civil Courts Act, 1873.

6. On and from the date on which rules under section 3 take effect in any part of the territories under the administration of the Governor of Fort Saint George in Council to which the <sup>1</sup>Madras Civil Courts Act, 1873, extends, section 14 of that Act shall be repealed as regards that part of those territories. III of 1873.

## PART II.

## OTHER SUITS.

Extent and commencement of Part II.

7. This Part extends to the whole of British India, and shall come into force on the first day of July, 1887.

Court-fee value and jurisdictional value to be the same in certain suits.

8. Where in suits other than those referred to in the <sup>2</sup>Court-fees Act, 1870, section 7, paragraphs v, vi and ix, and paragraph x, clause (d), court-fees are payable *ad valorem* under the <sup>2</sup>Court-fees Act, 1870, the value as determinable for the computation of court-fees and the value for purposes of jurisdiction shall be the same.

Determination of value of certain suits by High Court.

9. When the subject-matter of suits of any class, other than suits mentioned in the <sup>2</sup>Court-fees Act, 1870, section 7, paragraphs v and vi, and paragraph x, clause (d), is such that in the opinion of the High Court it does not admit of being satisfactorily valued, the High Court may, with the previous sanction of the Local Government, direct that suits of that class shall, for the purposes of the <sup>2</sup>Court-fees Act, 1870, and of this Act and any other enactment for the time being in force, be treated as if their subject-matter were of such value as the High Court thinks fit to specify in this behalf.<sup>3</sup> VII of 1870.

10. [Repeal of s. 32, Punjab Courts Act, 1884 (XVIII of 1884).] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

<sup>1</sup> Mad. Code, Vol. I.

<sup>2</sup> Genl. Acts, Vol. II.

<sup>3</sup> For rules as to valuation of certain classes of suits under this section in—

(1) Ajmer-Marwara, see A. M. R. & O., Vol. I.

(2) Central Provinces, see C. P. R. & O.

(3) Oudh, see U. P. List of R. & O., Vol. I.

(4) Punjab, see Punj. List of R. & O.

(5) For rules in regard to the value of the subject-matter of certain suits and appeals instituted or presented in Madras on or after a specified date, see Mad. R. & O., Vol. I.

## (Part III.—Supplemental Provisions.)

## PART III.

## SUPPLEMENTAL PROVISIONS.

**XIV of 1882.** 11. (1) Notwithstanding anything in section 578 of the <sup>1</sup>Code of Civil Procedure, an objection that by reason of the over-valuation or under-valuation of a suit or appeal a Court of first instance or lower appellate Court which had not jurisdiction with respect to the suit or appeal exercised jurisdiction with respect thereto shall not be entertained by an appellate Court unless—

Procedure where objection is taken on appeal or revision that a suit or appeal was not properly valued for jurisdictional purposes.

(a) the objection was taken in the Court of first instance at or before the hearing at which issues were first framed and recorded, or in the lower appellate Court in the memorandum of appeal to that Court, or

(b) the appellate Court is satisfied, for reasons to be recorded by it in writing, that the suit or appeal was over-valued or under-valued, and that the over-valuation or under-valuation thereof has prejudicially affected the disposal of the suit or appeal on its merits.

(2) If the objection was taken in the manner mentioned in clause (a) of sub-section (1), but the appellate Court is not satisfied as to both the matters mentioned in clause (b) of that sub-section and has before it the materials necessary for the determination of the other grounds of appeal to itself, it shall dispose of the appeal as if there had been no defect of jurisdiction in the Court of the first instance or lower appellate Court.

(3) If the objection was taken in that matter and the appellate Court is satisfied as to both those matters and has not those materials before it, it shall proceed to deal with the appeal under the rules applicable to the Court with respect to the hearing of appeals; but if it remands the suit or appeal, or frames and refers issues for trial, or requires additional evidence to be taken, it shall direct its order to a Court competent to entertain the suit or appeal.

**XIV of 1882.** (4) The provisions of this section with respect to an appellate Court shall, so far as they can be made applicable, apply to a Court exercising revisional jurisdiction under <sup>2</sup> section 622 of the Code of Civil Procedure or other enactment for the time being in force.

(5) This section extends to the whole of British India, and shall come into force on the first day of July, 1887.

12. Nothing in Part I or Part II shall be construed to affect the jurisdiction of any Court—

Proceedings pending at commencement of

(a) with respect to any suit instituted before rules under Part I

<sup>1</sup> See now s. 99 of the Code of Civil Procedure, 1908 (Act 5 of 1908), Genl. Acts, Vol. VI.

<sup>2</sup> See now s. 115 of the Code of Civil Procedure, 1908 (Act 5 of 1908), Genl. Acts, Vol. VI.

Part I or Part  
II.

- applicable to the valuation of the suit take effect, or Part II has come into force, as the case may be, or  
(b) with respect to any appeal arising out of any such suit.

## THE PROVINCIAL SMALL CAUSE COURTS ACT, 1887.

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(Chap. I.—Preliminary.)

ACT No. IX OF 1887.<sup>1</sup>

[24th February, 1887.]

An Act to consolidate and amend the law relating to Courts of Small Causes established beyond the Presidency-towns.

WHEREAS it is expedient to consolidate and amend the law relating to Courts of Small Causes established beyond the local limits for the time being of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William in Bengal and at Madras and Bombay ; It is hereby enacted as follows :—

## CHAPTER I.

## PRELIMINARY.

Title, extent  
and com-  
mencement.

1. (1) This Act may be called the Provincial Small Causes Courts Act, 1887.

(2) It extends to the whole of <sup>2</sup>British India ; and

(3) It shall come into force on the first day of July, 1887.

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1886, Pt. V, p. 8 ; for Report of the Select Committee, *see* *ibid*, 1887, Pt. IV, p. 33 ; and for Proceedings in Council, *see* *ibid*, 1886, Supplement, pp. 8 and 9, and *ibid*, 1887, Pt. VI, p. 25.

Act 9 of 1887 was declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1890 (1 of 890), s. 3, Bal. Code.

It has been declared, under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), Genl. Acts, Vol. II, to be in force in the Districts of Hazáribagh, Lohárdaga and Mánbhum, and Pargana Dhálbhum and the Kolhan in the District of Singbhum, *see* Gazette of India, 1887, Pt. I, p. 582. The District of Lohárdaga (now called the Ranchi District, *see* Calcutta Gazette, 1899, Pt. I, p. 44) included at this time the District of Palamau, which was separated in 1894.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), *see* s. 4 and the First Schedule, Bur. Code.

It had previously been extended, under s. 5 of Act 14 of 1874,—

(a) to the Town of Mandalay, *see* Gazette of India, 1888, Pt. I, p. 88 ; and

(b) to the whole of Upper Burma (except the Shan States), *see* Gazette of India, 1897, Pt. I, p. 999.

For power to confer upon a Subordinate Judge or Munsif in Bengal, the Province of Agra and Assam, the jurisdiction of a Court of Small Causes under this Act, *see* the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887 (12 of 1887), s. 25, E. B. & A. Code, Vol. I.

Ss. 15, 32, 37, 38, 39 and 40 of the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887 (12 of 1887), apply to Courts of Small Causes constituted under this Act, *see* Act 12 of 1887, s. 40, E. B. & A. Code, Vol. I.

The powers of a Court of Small Causes under this Act have been conferred upon the Courts of the Sub-divisional Officers of Angul and of the Khondmals by section 15 of the Angul District Regulation, 1894 (1 of 1894), as substituted by section 8 of the Angul District (Amendment) Regulation, 1904 (4 of 1904), Ben. Code, Vol. I.

<sup>2</sup> As to definition of " British India," *see* Interpretation Act (52 and 53 Vict., c. 63), s. 18, cl. 4, Gazette of India, 1889, Pt. I, p. 545, and the General Clauses Act, 1897 (10 of 1897), s. 3 (7), *infra*

2. (1) [*Repeal of enactments.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

(2) <sup>1</sup> \*All Courts constituted, limits fixed, places appointed, appointments, declarations and rules made, jurisdiction and powers conferred, forms prescribed, directions given and notifications published under <sup>2</sup>Act No. XI of 1865 (*an Act to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature*), or under any enactment repealed by that Act, shall, so far as may be, be deemed to have been respectively constituted, fixed, appointed, made, conferred, prescribed, given and published under this Act. Construction.

(3) Any enactment or document referring to <sup>3</sup>Act No. XI of 1865 or to any enactment thereby repealed shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

3. Nothing in this Act shall be construed to affect—

Savings.

(a) any proceedings before or after decree in any suit instituted before the commencement of this Act; or

(b) the jurisdiction of a Magistrate under any law for the time being in force with respect to debts or other claims of a civil nature, or of village-munsifs or village-pancháyats, under the provisions of the Madras Code, or of village-munsifs under the <sup>3</sup>Dekkhan Agriculturists' Relief Act, 1879; or

(c) any local law or any special law other than the <sup>4</sup>Code of Civil Procedure.

4. In this Act, unless there is something repugnant in the subject or context, "Court of Small Causes" means a Court of Small Causes constituted under this Act, and includes any person exercising jurisdiction under this Act in any such Court. Definition.

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<sup>1</sup> The word "But" was repealed by the Repealing and Amending Act, 1891 (12 of 1891), *infra*.

<sup>2</sup> Act XI of 1865 was repealed by s. 2 (1) of this Act.

<sup>3</sup> Bom. Code, Vol. I.

<sup>4</sup> Genl. Acts, Vol. VI.

## CHAPTER II.

### CONSTITUTION OF COURTS OF SMALL CAUSES.

Establishment  
of Courts of  
Small Causes.

5. (1) The Local Government, with the previous sanction of the Governor General in Council, may, by order in writing, establish a Court of Small Causes at any <sup>1</sup> place within the territories under its administration beyond the local limits for the time being of the ordinary original civil jurisdiction of a High Court of Judicature established in a Presidency-town.

(2) The local limits of the jurisdiction of the Court of Small Causes shall be such as the Local Government may define, and the Court may be held at such place or places within those limits as the Local Government may appoint.<sup>2</sup>

Judge.

6. (1) When a Court of Small Causes has been established, the Local Government shall, by order in writing, appoint a Judge of the Court.<sup>3</sup>

(2) The Judge may be the Judge of one Court of Small Causes or of two or more such Courts, as the Local Government directs.

Appointment  
of times of  
sitting in  
certain cir-  
cumstances.

7. (1) A Judge who is the Judge of two or more such Courts may, with the sanction of the District Court, fix the times at which he will sit in each of the Courts of which he is Judge.

(2) Notice of the times shall be published in such manner as the High Court from time to time directs.

Additional  
Judge.

8. (1) The Local Government, with the previous sanction of the Governor General in Council, may, by order in writing, appoint an Additional Judge of a Court of Small Causes or of two or more such Courts.

(2) The Additional Judge shall discharge such of the functions of the Judge of the Court or Courts as the Judge may assign to him, and in the discharge of those functions shall exercise the same powers as the Judge.

(3) The Judge may withdraw from the Additional Judge any business pending before him.

<sup>1</sup> For notifications constituting Provincial Small Cause Courts in—

(a) Bombay Presidency, *see* Bom. R. & O., Vol. I;  
(b) Burma, *see* Bur. R. M., and Burma Gazette, 1898, Pt. I, p. 107; *ibid*, 1900, Pt. I, p. 320;  
(c) United Provinces of Agra and Oudh, *see* U. P. List of R. & O., Vol. I;  
(d) N.-W. Frontier Province (Cantonment of Nowshera), *see* Gazette of India, 1904, Pt. I, p. 318.

<sup>2</sup> For notifications issued under cl. (2) of s. 5 for Courts in—

(1) Bombay Presidency, *see* Bom. R. & O., Vol. I.  
(2) Bengal, *see* Ben. Stat. R. & O., Vol. II.  
(3) Burma, *see* Bur. R. M. and Burma Gazette, 1900, Pt. I, p. 320.  
(4) Central Provinces, *see* Cent. Prov. R. and O., pp 247 and 248; and Central Provinces Gazette, 1908, Pt. I, p. 596.  
(5) United Provinces of Agra and Oudh, *see* U. P. List of R. & O.  
For instance of a notification issued under this section, *see* Bur. R. M.

*(Chap. II.—Constitution of Courts of Small Causes.)*

(4) When the Judge is absent, the Additional Judge may discharge all or any of the functions of the Judge.

9. A Judge or Additional Judge of a Court of Small Causes may be suspended or removed from office by the Local Government.

Suspension and removal of Judges.

10. The Local Government, after consultation with the High Court, may, by order in writing, direct that two Judges of Courts of Small Causes or a Judge and an Additional Judge of a Court of Small Causes, shall sit together for the trial of such class or classes of suits or applications cognizable by a Court of Small Causes as may be described in the order.

Power to require two Judges to sit as a bench.

11. (1) If two Judges, or a Judge and an Additional Judge, sitting together under the last foregoing section, differ as to a question of law or usage having the force of law, or in construing a document the construction of which may affect the merits, they shall draw up and refer, for the decision of the High Court, a statement of the facts of the case and of the point on which they differ in opinion, and the provisions of Chapter XLVI of the Code of Civil Procedure shall apply to the reference.

Decision in case heard by a bench.

XIV of 1882.

(2) If they differ on any matter other than a matter specified in sub-section (1), the opinion of the Judge who is senior in respect of date of appointment as Judge of a Court of Small Causes, or, if one of them is an additional Judge, then the opinion of the Judge sitting with him, shall prevail.

(3) For the purposes of sub-section (2), a Judge permanently appointed shall be deemed to be senior to an officiating Judge.

12. (1) The Local Government may appoint to a Court of Small Causes an officer to be called the Registrar of the Court.<sup>2</sup>

Registrar.

(2) Where a Registrar is appointed, he shall be the chief ministerial officer of the Court.

(3) The Local Government may, by order in writing, confer upon a Registrar, within the local limits of the jurisdiction of the Court, the jurisdiction of a Judge of a Court of Small Causes for the trial of suits of which the value does not exceed twenty rupees.

(4) The Registrar shall try such suits cognizable by him as the Judge may, by general or special order, direct.

(5) A Registrar may be suspended or removed from office by the Local Government.

13. Subject to any enactment for the time being in force and to any orders made by the Local Government in this behalf, the law or practice for the time being applicable to the appointment, punishment and transfer of

Other ministerial officers.

<sup>1</sup> See now ss. 113 and 115 and the first Schedule, Order XXVI of the Code of Civil Procedure, 1908 (5 of 1908), Genl. Acts, Vol. VI

<sup>2</sup> For instance of a notification issued under this section, see Bom. R. & O., Vol. I.

(Chap. II.—*Constitution of Courts of Small Causes.* Chap. III.—*Jurisdiction of Courts of Small Causes.*)

ministerial officers of a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which a Court of Small Causes is established shall, so far as it can be made applicable, apply to the appointment, punishment and transfer of ministerial officers of the Court of Small Causes other than the Registrar, if any, of that Court.

Duties of  
ministerial  
officers.

14. (1) The ministerial officers of a Court of Small Causes shall, in addition to any duties mentioned in this Act, or in any other enactment for the time being in force, as duties which are or may be imposed on any of them, discharge such duties of a ministerial nature as the Judge directs.

(2) The High Court may make rules consistent with this Act, and with any other enactment for the time being in force, conferring and imposing on the ministerial officers<sup>1</sup> of Court of Small Causes such powers and duties as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed are to be exercised and performed.

### CHAPTER III.

#### JURISDICTION OF COURTS OF SMALL CAUSES.

Cognizance  
of suits by  
Courts of  
Small Causes.

15. (1) A Court of Small Causes shall not take cognizance of the suits specified in the second schedule as suits excepted from the cognizance of a Court of Small Causes.

(2) Subject to the exceptions specified in that schedule and to the provisions of any enactment for the time being in force, all suits of a civil nature of which the value does not exceed five hundred rupees shall be cognizable by a Court of Small Causes.

(3) Subject as aforesaid, the Local Government may, by order in writing, direct that all suits of civil nature of which the value does not exceed one thousand rupees shall be cognizable by a Court of Small Causes mentioned in the order.<sup>2</sup>

Exclusive  
jurisdiction  
of Courts of  
Small Causes.

16. Save as expressly provided by this Act or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable.

<sup>1</sup> For instance of a notification issued under this power, see Bom. R. & O., Vol. I.

<sup>2</sup> For notifications issued under this power in—

(1) Bombay, see Bom. R. & O., Vol. I.

(2) Burma, see Bur. R. M., this notification issued originally under Act XI of 1865 and was kept in force by s. 2 (2) of this Act; and Burma Gazette, 1900, Pt. I, p. 322.

CHAPTER IV.

PRACTICE AND PROCEDURE.

**XIV** of 1882. 17. (1) The procedure prescribed in the chapters and sections of the <sup>1</sup>Code of Civil Procedure specified in the second schedule to that Code,<sup>2</sup> \*\* shall, so far as those chapters and sections are applicable, be the procedure followed in a Court of Small Causes in all suits cognizable by it and in all proceedings arising out of such suits :

Application of the Code of Civil Procedure.

Provided that an applicant for an order to set aside a decree passed *ex parte* or for a review of judgment shall, at the time of presenting his application, either deposit in the Court the amount due from him under the decree or in pursuance of the judgment, or give security to the satisfaction of the Court for the performance of the decree or compliance with the judgment, as the Court may direct.

(2) Where a person has become liable as surety under the proviso to sub-section (1), the security may be realized in manner provided by <sup>3</sup>section 253 of the Code of Civil Procedure.

18. (1) Suits cognizable by the Registrar under section 12, sub-sections (5) and (4), shall be tried by him and decrees passed therein shall be executed by him, in like manner in all respects as the Judge might try the suits, and execute the decrees, respectively.

Trial of suits by Registrar.

(2) The Judge may transfer to his own file, or to that of the Additional Judge if an Additional Judge has been appointed, any suit or other proceeding pending on the file of the Registrar.

19. (1) When the Judge of a Court of Small Causes is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar may admit a plaint, or return or reject a plaint for any reason for which the Judge might return or reject it.

Admission, return and rejection of plaints by Registrar.

(2) The Judge may, of his own motion or on the application of a party, return or reject a plaint which has been admitted by the Registrar, or admit a plaint which has been returned or rejected by him :

Provided that where a party applies for the return or rejection or the admission of a plaint under this sub-section, and his application is not made at the first sitting of the Judge after the day on which the Registrar admitted,

<sup>1</sup> See now the Code of Civil Procedure, 1908 (Act 5 of 1908), Genl. Acts, Vol. VI.

<sup>2</sup> The words "as amended by this Act" were repealed by the Repealing and Amending Act, 1891 (XII of 1891).

<sup>3</sup> See now s. 145 of the Code of Civil Procedure, 1908 (Act 5 of 1908), Genl. Acts, Vol. VI.

or returned or rejected, the plaintiff, the Judge shall dismiss the application unless the applicant satisfies him that there was sufficient cause for not making the application at that sitting.

Passing of  
decrees by  
Registrar on  
confession.

20. (1) If, before the date appointed for the hearing of a suit, the defendant or his agent duly authorized in that behalf appears before the Registrar and admits the plaintiff's claim, the Registrar may, if the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, pass against the defendant, upon the admission, a decree which shall have the same effect as a decree passed by the Judge.

(2) Where a decree has been passed by the Registrar under sub-section (1), the Judge may grant an application for review of judgment, and re-hear the suit, on the same conditions, on the same grounds and in the same manner as if the decree had been passed by himself.

Execution  
of decrees by  
Registrar.

21. (1) If the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar may, subject to any instructions which he may have received from the Judge or, with respect to decrees or orders made by an Additional Judge, from the Additional Judge, make any orders in respect of applications for the execution of decrees and orders made by the Court of which he is Registrar, or sent to that Court for execution, which the Judge might make under this Act.

(2) The Judge, in the case of any decree or order with respect to the execution of which the Registrar has made an order under sub-section (1), or the Additional Judge, in the case of any such decree or order which has been made by himself and with respect to which proceedings have not been taken by the Judge under this sub-section, may, of his own motion, or on application made by a party within fifteen days from the date of the order of the Registrar or of the execution of any process issued in pursuance of that order, reverse or modify the order.

(3) The period of fifteen days mentioned in sub-section (2) shall be computed in accordance with the provisions of the <sup>1</sup>Indian Limitation Act, 1877, as though the application of the party were an application for review of judgment. XV of 1877.

Adjournment  
of cases by  
chief ministerial  
officer.

22. When the Judge of a Court of Small Causes is absent and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar or other chief ministerial officer of the Court may exercise from time to time the power which the Court possesses of adjourning the hearing of any suit or other proceeding, and fix a day for the further hearing thereof.

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<sup>1</sup> See now the Indian Limitation Act, 1908 (9 of 1908), Genl. Acts, Vol. VI.

23. (1) Notwithstanding anything in the foregoing portion of this Act, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immoveable property or other title which such a Court cannot finally determine, the Court may at any stage of the proceedings return the plaint to be presented to a Court having jurisdiction to determine the title.

Return of  
plaints in  
suits involv-  
ing questions  
of title.

XIV of 1882.

XV of 1877.

(2) When a Court returns a plaint under sub-section (1), it shall comply with the provisions of the second paragraph of <sup>1</sup> section 57 of the Code of Civil Procedure and make such order with respect to costs as it deems just, and the Court shall, for the purposes of the <sup>2</sup> Indian Limitation Act, 1877, be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction.

XIV of 1882.

24. Where an order specified in <sup>3</sup> section 588, clause (29), of the Code of Civil Procedure is made by a Court of Small Causes, an appeal therefrom shall lie to the District Court.

Appeal from  
certain orders  
of Courts of  
Small Causes.

25. The High Court, for the purpose of satisfying itself that a decree or order made in any case decided by a Court of Small Causes was according to law, may call for the case and pass such order with respect thereto as it thinks fit.

Revision of  
decrees and  
orders of  
Courts of  
Small Causes.

26. [*Amendment of the second schedule to the Code of Civil Procedure.*] *Rep. by the Presidency Small Cause Courts Law Amendment Act, 1888 (X of 1888), s. 4.*

27. Save as provided by this Act, a decree or order made under the foregoing provisions of this Act by a Court of Small Causes shall be final.

Finality of  
decrees and  
orders.

## CHAPTER V.

### SUPPLEMENTAL PROVISIONS.

28. (1) A Court of Small Causes shall be subject to the administrative control of the District Court and to the superintendence of the High Court, and shall—

Subordination  
of Courts  
of Small  
Causes.

(a) keep such registers, books and accounts as the High Court from time to time prescribes, and

(b) comply with such requisitions as may be made by the District Court, the High Court or the Local Government for records, returns and statements in such form and manner as the authority making the requisition directs.

<sup>1</sup> See now the First Schedule, Order VII, rule 10 of the Code of Civil Procedure, 1908 (Act 5 of 1908), Genl. Acts, Vol. VI.

<sup>2</sup> See now the Indian Limitation Act, 1908 (Act 9 of 1908), Genl. Acts, Vol. VI.

<sup>3</sup> See now s. 104 of the Code of Civil Procedure, 1908 (Act 5 of 1908), Genl. Acts, Vol. IV.



*(Chap. V.—Supplemental Provisions.)*

(2) The relation of the District Court to a Court of Small Causes, with respect to administrative control, shall be the same as that of the District Court to a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which the Court of Small Causes is established.

Seal.

29. A Court of Small Causes shall use a seal of such form and dimensions as are prescribed by the Local Government.

Abolition of Courts of Small Causes.

30. The Local Government may, by order in writing, <sup>1</sup>abolish a Court of Small Causes.

Saving of power to appoint Judge of Court of Small Causes to other office.

31. (1) Nothing in this Act shall be construed to prevent the Local Government from appointing a person who is a Judge or additional Judge of a Court of Small Causes to be also a Judge of any other <sup>2</sup> Civil Court or to be a Magistrate of any class or to hold any other public office.

(2) When a Judge or additional Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Local Government may make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of the duties of the other office.

Application of Act to Courts invested with jurisdiction of Court of Small Causes.

32. (1) So much of chapters III and IV as relates to—

- (a) the nature of the suits cognizable by Courts of Small Causes,
- (b) the exclusion of the jurisdiction of other Courts in those suits,
- (c) the practice and procedure of Courts of Small Causes,
- (d) appeal from certain orders of those Courts and revision of cases decided by them, and
- (e) the finality of their decrees and orders subject to such appeal and revision as are provided by this Act,

applies to Courts invested by or under any enactment for the time being in force with the jurisdiction of a Court of Small Causes so far as regards the exercise of that jurisdiction by those Courts.

2) Nothing in sub-section (1) with respect to Courts invested with the jurisdiction of a Court of Small Causes applies to suits instituted or proceedings commenced in those Courts before the date on which they were invested with that jurisdiction.

App of Act and Code to Court so

33. A Court invested with the jurisdiction of a Court of Small Causes with respect to the exercise of that jurisdiction, and the same Court with respect to the exercise of its jurisdiction in suits of a civil nature, which are

<sup>1</sup> For instance of a notification abolishing a Court of Small Causes (Broach), see Bombay Govt. Gazette, 1907, Pt. I, p. 339.

<sup>2</sup> For instances of notifications issued under this power, see U. P. List of Local R. & O., Vol. I.

(Chap. V.—*Supplemental Provisions. The Second Schedule.—Suits excepted from the cognizance of a Court of Small Causes.*)

not cognizable by a Court of Small Causes, shall, for the purposes of this Act and the 'Code of Civil Procedure, be deemed to be different courts. invested as to two Courts.

34. Notwithstanding anything in the last two foregoing sections,—

(a) when in exercise of the jurisdiction of a Court of Small Causes, a Court invested with that jurisdiction sends a decree for execution to itself as a Court having jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, or

(b) when a Court, in the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes sends a decree for execution to itself as a Court invested with the jurisdiction of a Court of Small Causes,—

Modification of Code as so applied.

XIV of 1882. the documents mentioned in <sup>2</sup>section 224 of the Code of Civil Procedure shall not be sent with the decree unless in any case the Court, by order in writing, requires them to be sent.

35. (1). Where a Court of Small Causes, or a Court invested with the jurisdiction of a Court of Small Causes, has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case, whether before or after decree, which, if the Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court which, if the suit out of which the proceeding has arisen were about to be instituted, would have jurisdiction to try the suit.

Continuance of proceedings of abolished Courts.

XIV of 1882. (2) Nothing in this section applies to cases for which special provision is made in the <sup>1</sup> Code of Civil Procedure as extended to Courts of Small Causes or in any other enactment for the time being in force.

36. [*Amendment of Indian Limitation Act.*] *Rep. Act IX of 1908.*

37. All orders required by this Act to be made in writing by the Local Government shall be published in the official Gazette.

Publication of certain orders.

## THE FIRST SCHEDULE.

[ENACTMENTS REPEALED.]

*Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

## THE SECOND SCHEDULE.

SUITS EXCEPTED FROM THE COGNIZANCE OF A COURT OF SMALL CAUSES.

(See Section 15.)

(1) A suit concerning an act or order purporting to be done or made by

<sup>1</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.

<sup>2</sup> See now the First Schedule, Order XXI, rule 6, of the Code of Civil Procedure, 1908 (Act 5 of 1908), Genl. Acts, Vol. VI.

(The Second Schedule.—Suits excepted from the cognizance of a Court of Small Causes.)

the Governor General in Council or a Local Government, or by the Governor General or a Governor, or by a Member of the Council of the Governor General or of the Governor of Madras or Bombay, in his official capacity, or concerning an act purporting to be done by any person by order of the Governor General in Council or a Local Government ;

- (2) a suit concerning an act purporting to be done by any person in pursuance of a judgment or order of a Court or of a judicial officer acting in the execution of his office ;
- (3) a suit concerning an act or order purporting to be done or made by any other officer of the Government in his official capacity, or by a Court of Wards, or by an officer of a Court of Wards in the execution of his office ;
- (4) a suit for the possession of immoveable property or for the recovery of an interest in such property ;
- (5) a suit for the partition of immoveable property ;
- (6) a suit by a mortgagee of immoveable property for the foreclosure of the mortgage or for the sale of the property, or by a mortgagor of immoveable property for the redemption of the mortgage ;
- (7) a suit for the assessment, enhancement, abatement or apportionment of the rent of immoveable property ;
- (8) a suit for the recovery of rent, other than house-rent, unless the Judge of the Court of Small Causes has been expressly invested by the Local Government with authority to exercise jurisdiction with respect thereto ;<sup>1</sup>
- (9) a suit concerning the liability of land to be assessed to land-revenue ;
- (10) a suit to restrain waste ;
- (11) a suit for the determination or enforcement of any other right to or interest in immoveable property ;
- (12) a suit for the possession of an hereditary office or of an interest in such an office, including a suit to establish an exclusive periodically recurring right to discharge the functions of an office ;
- (13) a suit to enforce payment of the allowance or fees respectively called *malikana* and *haqq*, or of cesses or other dues when the

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<sup>1</sup> For notifications issued under this clause for—

(1) the Madras Presidency, *see* Mad. R. & O., Vol. I.

(2) Burma, *see* Bur. R. M., Vol. I.

(*The Second Schedule.—Suits excepted from the cognizance of a Court of Small Causes.*)

cesses or dues are payable to a person by reason of his interest in immoveable property or in an hereditary office or in a shrine or other religious institution ;

**X of 1870.**

(14) a suit to recover from a person to whom compensation has been paid under the <sup>1</sup> Land Acquisition Act, 1870, the whole or any part of the compensation ;

(15) a suit for the specific performance or rescission of a contract ;

(16) a suit for the rectification or cancellation of an instrument ;

(17) a suit to obtain an injunction ;

(18) a suit relating to a trust, including a suit to make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust, and a suit by a co-trustee to enforce against the estate of a deceased trustee a claim for contribution ;

**XIV of 1882.**

(19) a suit for a declaratory decree, not being a suit instituted under <sup>2</sup> section 283 or section 332 of the Code of Civil Procedure ;

(20) a suit instituted under section <sup>2</sup> 283 or section 332 of the Code of Civil Procedure ;

(21) a suit to set aside an attachment by a Court or a revenue-authority, or a sale, mortgage, lease or other transfer by a Court or a revenue-authority or by a guardian ;

(22) a suit for property which the plaintiff has conveyed while insane ;

(23) a suit to alter or set aside a decision, decree or order of a Court or of a person acting in a judicial capacity ;

(24) a suit to contest an award ;

**XIV of 1882.**

(25) a suit upon a foreign judgment as defined in the Code of Civil Procedure or upon a judgment obtained in British India ;

(26) a suit to compel a refund of assets improperly distributed under section <sup>3</sup> 295 of the Code of Civil Procedure ;

**X of 1865.**

**V of 1881.**

(27) a suit under the <sup>4</sup> Indian Succession Act, 1865, section 320 or section 321, or under the <sup>5</sup> Probate and Administration Act, 1881, section 139 or section 140, to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets ;

(28) a suit for a legacy or for the whole or a share of a residue

<sup>1</sup> See now the Land Acquisition Act, 1894 (1 of 1894), *infra*.

<sup>2</sup> See now the First Schedule, Order XXI, rules 68 and 100 respectively of the Code of Civil Procedure, 1908 (Act 5 of 1908), Genl. Acts, Vol. VI.

<sup>3</sup> See now s. 73 of Act 5 of 1908.

<sup>4</sup> Genl. Acts, Vol. I.

<sup>5</sup> Genl. Acts, Vol. III.

(The Second Schedule.—Suits excepted from the cognizance of a Court of Small Causes.)

bequeathed by a testator, or for the whole or a share of the property of an intestate ;

(29) a suit—

(a) for a dissolution of partnership or for the winding up of the business of a partnership after its dissolution ;

(b) for an account of partnership transactions ; or

(c) for a balance of partnership-account, unless the balance has been struck by the parties or their agents ;

(30) a suit for an account of property and for its due administration under decree ;

(31) any other suit for an account, including a suit by a mortgagor, after the mortgage has been satisfied, to recover surplus collections received by the mortgagee, and a suit for the profits on immoveable property belonging to the plaintiff which have been wrongfully received by the defendant ;

(32) a suit for a general average loss or for salvage ;

(33) a suit for compensation in respect of collision between ships ;

(34) a suit on a policy of insurance or for the recovery of any premium paid under any such policy ;

(35) a suit for compensation—

(a) for loss occasioned by the death of a person caused by actionable wrong ;

(b) for wrongful arrest, restraint or confinement ;

(c) for malicious prosecution ;

(d) for libel ;

(e) for slander ;

(f) for adultery or seduction ;

(g) for breach of contract of betrothal or promise of marriage ;

(h) for inducing a person to break a contract made with the plaintiff ;

(i) for obstruction of an easement or diversion of a watercourse ;

(j) for illegal, improper or excessive distress or attachment ;

(k) for improper arrest under <sup>1</sup> Chapter XXXIV of the Code of Civil Procedure or in respect of the issue of an injunction wrongfully obtained under <sup>1</sup> Chapter XXXV of that Code ; or

(l) for injury to the person in any case not specified in the foregoing sub-clauses of this clause ;

<sup>1</sup> See now the Code of Civil Procedure, 1908 (Act 5<sup>a</sup> of 1908), First Schedule, Orders XXXVIII and XXXIX respectively and s. 95, Genl. Acts, Vol. VI.

(*The Second Schedule.—Suits excepted from the cognizance of a Court of Small Causes.*)

1887 : Act X.] *Native Passenger Ships.*

- (36) a suit by a Muhammadan for exigible (*mu'ajjal*) or deferred (*mu'wajjal*) dower;
- (37) a suit for the restitution of conjugal rights, for the recovery of a wife, for the custody of a minor, or for a divorce;
- (38) a suit relating to maintenance;
- (39) a suit for arrears of land-revenue, village-expenses or other sums payable to the representative of a village-community or to his heir or other successor in title;
- (40) a suit for profits payable by the representative of a village-community or by his heir or other successor in title after payment of land-revenue, village-expenses and other sums;
- (41) a suit for contribution by a sharer in joint property in respect of a payment made by him of money due from a co-sharer, or by a manager of joint property, or a member of an undivided family in respect of a payment made by him on account of the property or family;
- (42) a suit by one of several joint mortgagors of immoveable property for contribution in respect of money paid by him for the redemption of the mortgaged property;
- (43) a suit against the Government to recover money paid under protest in satisfaction of a claim made by a revenue-authority on account of an arrear of land-revenue or of a demand recoverable as an arrear of land-revenue;
- (44) a suit the cognizance whereof by a Court of Small Causes is barred by any enactment for the time being in force.

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THE NATIVE PASSENGER SHIPS ACT, 1887.

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[24th February, 1887.]

## An Act to consolidate and amend the law relating to Native Passenger Ships.

WHEREAS it is expedient to consolidate and amend the law relating to native passenger ships; It is hereby enacted as follows:—

### CHAPTER I.

#### PRELIMINARY.

#### Title.

#### Extent and application.

1. This Act may be called the Native Passenger Ships Act, 1887.
2. (1) It extends to the whole of British India, and applies—
  - (a) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty;
  - (b) to all native Indian subjects of Her Majesty without and beyond British India; and,
  - (c) subject to the exceptions mentioned in sub-section (2), to ships carrying as passengers more than thirty natives of Asia or Africa.
- (2) But it does not apply—
  - (i) to any ship-of-war, troopship, transport, or other ship belonging to the Royal Navy or Her Majesty's Indian Marine Service, or
  - (ii) to any other ship for the time being in the service of Her Majesty, or
  - (iii) to any ship-of-war belonging to any Foreign Prince or State, or
  - (iv) to any steam-ship not carrying as passengers more than sixty natives of Asia or Africa, or
  - (v) to any ship not intended to carry natives of Asia or Africa as passengers to or from any port in British India.
- (3) Notwithstanding anything in sub-sections (1) and (2), the Local Government may, with the previous sanction of the Governor General in Council,<sup>2</sup> declare all or any of the provisions of this Act to apply to sailing-

<sup>1</sup> Cf. the Merchant Shipping Act, 1852 (16 and 17 Vict., c. 48), since repealed by the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60) Coll. Stats. Ind., Vol. II.

For Statement of Objects and Reasons, see Gazette of India, 1886, Pt. V, p. 834; for Report of the Select Committee, see *ibid.*, 1887, Pt. IV, p. 37 and for Proceedings in Council, see *ibid.*, 1886, Supplement, pp. 1189 and 1193, and *ibid.*, 1887, Pt. VI, p. 27.

On and from the 6th October, 1896, Act 10 of 1887 ceased to apply to pilgrim ships. On that date the Pilgrim Ships Act, 1895 (14 of 1895), which repeals Act 10 of 1887, so far as it affects such ships, was brought into force, see s. 4 of Act 14 of 1895 and Gazette of India, 1896, Pt. I, p. 800.

For notification approving of the forms of certain documents required in connection with the working of the Act and appointing certain officers to exercise certain powers under the Act, see Ben. Stat. R. & O., Vol. II.

<sup>2</sup> For notification by the Government of Madras, declaring the Act to apply to sailing vessels carrying more than 15 Asiatics or Africans and to steamers carrying more than 30 such as passengers to Ceylon, see Fort St. George Gazette, 1904, Pt. I, p. 786, and Mad. R. and O., Vol. I.

ships, or any class of sailing-ships, carrying as passengers more than fifteen natives of Asia or Africa, and to steam-ships, or any class of steam-ships, carrying as passengers more than thirty such natives.

3. This Act shall come into force on such day as the Governor General in Council, by notification in the Gazette of India, appoints.<sup>1</sup> Commence-  
ment.

4. (1) On and from that day the enactments mentioned in the schedule shall be repealed to the extent specified in the third column thereof. Repeal.

(2) But all ports, places and officers appointed, rules, declarations and exemptions made, bonds executed, directions given and certificates granted under any of those enactments shall, so far as may be, be deemed to be respectively appointed, made, executed, given and granted under this Act ; and

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

5. In this Act, unless there is something repugnant in the subject or context,— Definitions.

(1) “ ship ” means a ship to which this Act applies :

(2) “ passenger ” means a passenger by a ship who is a native of Asia or Africa of the age of twelve years or upwards and is not on the articles of the ship as one of the crew ; but it does not include either a passenger in attendance on a person who is not a native of Asia or Africa, or a child under one year of age ; and, in the computation of passengers for any of the purposes of this Act, two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one passenger :

(3) “ long voyage ” means, subject to the provisions of this Act, any voyage during which the ship performing it will in ordinary circumstances be one hundred and twenty hours or upwards continuously out of port :

(4) “ short voyage ” means, subject to the provisions of this Act, any voyage during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port :

(5) “ voyage,” when used without the prefix “ long ” or “ short,” means the whole distance between the ship’s port or place of departure and her final port or place of arrival :

(6) “ Chief Customs-officer ” means the chief executive officer of sea-customs in any port or place to which this Act applies : and

(7) “ Magistrate ” means a person exercising powers not inferior to those of a Magistrate of the second class.

<sup>1</sup> The Act came into force on 1st June, 1887, see Gazette of India, 1887, Pt. I, p. 250.

## CHAPTER II.

## RULES FOR ALL VOYAGES.

Ships to sail only from places appointed by the Government.

6. (1) A ship carrying passengers shall not depart or proceed from, or discharge passengers at, any port or place within British India other than a port or place <sup>1</sup> appointed in this behalf by the Local Government.

(2) After a ship has departed or proceeded on a voyage from a port or place so appointed, a person shall not be received on board as a passenger except at some other port or place so appointed.

Notice to be given of day of sailing.

7. (1) The master, owner or agent of a ship so departing or proceeding shall give notice to an officer <sup>2</sup> appointed in this behalf by the Local Government that the ship is to carry passengers, and of her destination, and of the proposed time of sailing.

(2) The notice shall be given not less than twenty-four hours before that time.

Power to enter on and inspect ship.

8. After receiving the notice, the officer aforesaid or a person authorized by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores in her.

Ship not to sail without two certificates.

9. (1) A ship intended to carry passengers shall not commence a voyage from a port or place appointed under this Act, unless the master holds two certificates to the effect mentioned in the two next following sections.

(2) The officer whose duty it is to grant a port-clearance for the ship shall not grant it unless the master holds those certificates.

Contents of certificate A.

10. The first of the certificates (hereinafter called "certificate A") shall state that the ship is seaworthy and properly equipped, fitted and ventilated, and the number of passengers which she is capable of carrying.

Contents of certificate B.

11. The second of the certificates (hereinafter called "certificate B") shall state—

- (a) the voyage which the ship is to make, and the intermediate ports, if any, at which she is to touch ;
- (b) that she has the proper complement of officers and seamen ;
- (c) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply

<sup>1</sup> For port and place appointed under this section in—

(1) Bengal, *see* Ben. Stat. R. & O., Vol. II.

(2) Bombay, *see* Bom. R. & O., Vol. I.

(3) Burma, *see* Bur. R. M.

(4) Madras, *see* Mad. R. & O., Vol. I.

<sup>2</sup> For instance of officers appointed under this section in conjunction with ss. 8, 17 and 37 and ss. 17, 37 and 51, *see* Bom. R. & O., Vol. I.

*(Chap. II.—Rules for all Voyages.)*

the passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed by those rules ;

- (d) that the master holds certificate A ;
- (e) if the ship is to make a short voyage in a season of foul weather, and to carry upper-deck passengers, that she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather ;
- (f) if she is to carry passengers to any port in the Red Sea, that she is propelled principally by steam, and, if she is to carry more than one hundred passengers to any such port, that she has on board a medical officer licensed in accordance with the rules under this Act ; and
- (g) such other particulars, if any, as may be prescribed by those rules.

12. The person by whom certificate A and certificate B are to be granted shall be the officer appointed under section 7.

Grant of  
certificates.

13. Where the master of a ship produces to that officer either of the following certificates, namely :—

Substitute  
for certificate  
A.

- (a) a valid certificate granted by the Board of Trade or by a British Colonial Government, or
- (b) a certificate granted under the authority of a British Indian Government, on a date not more than one year before the proposed day of sailing, and in force and applicable to the voyage on which the ship is to proceed or the service on which she is about to be employed, the officer may, if the particulars required by section 10 are certified thereby, take the certificate as evidence of those particulars, and it shall then be deemed to be a certificate A for the purposes of this Act.

14. (1) After receiving the notice required by section 7, the officer appointed under that section may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether the ship is, in their opinion, seaworthy and properly equipped, fitted and ventilated for the voyage which she is to make :

Survey of  
ship.

Provided that he shall not cause a ship holding a certificate mentioned in section 13, clause (a) or clause (b), to be surveyed unless by reason of the ship having met with damage or having undergone alterations or on other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the voyage.

(2) If the officer causes a survey to be made of a ship holding any such certificate, and the surveyors report that the ship is seaworthy and properly

(Chap. II.—Rules for all Voyages. Chap. III.—Rules for Short Voyages.)

equipped, fitted and ventilated for the voyage, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted or ventilated for the voyage, the expense of the survey shall be paid by the Local Government.

Discretion as to grant of certificate.

15. (1) The officer authorised to grant a certificate under this Act in respect of a ship shall not grant it unless he is satisfied that she has not on board any cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the passengers.

(2) But save as aforesaid, and subject to the provisions of sub-section (3) it shall be in the discretion of the officer to grant or withhold the certificate.

(3) In the exercise of that discretion that officer shall be subject to the control of the Local Government, and of any intermediate authority which that Government<sup>1</sup> appoints in this behalf.

Copy of certificates to be exhibited.

16. The master or owner shall post up in a conspicuous part of the ship, so as to be visible to persons on board thereof, a copy of each of the certificates granted under this Act in respect of the ship, and shall keep those copies so posted up throughout the voyage.

Supply by passengers of their own food.

17. If an officer appointed in this behalf by the Local Government is satisfied that a passenger has brought on board a ship for his own use food of the quality and in the quantity for the time being prescribed by the rules under this Act, the requirements of this Act respecting the supply of food for passengers shall not apply so far as regards the supply of food for that passenger.

## CHAPTER III.

### RULES FOR SHORT VOYAGES.

Space to be available for passengers.

18. (1) For seasons of fair weather a ship performing a short voyage shall, subject to the provisions of this Act, contain in the between-decks at least six superficial feet and thirty-six cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and six superficial feet available for each upper-deck passenger.

(2) For seasons of foul weather a ship propelled by sails and performing a short voyage shall, subject as aforesaid, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every

<sup>1</sup> For instance of such an appointment in—

(1) Bombay, *see* Bom. R. & O., Vol. I.

(2) Madras, *see* Mad. R. & O., Vol. I.

*(Chap. III.—Rules for Short Voyages.)*

between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and twelve superficial feet available for each upper-deck passenger.

(3) For seasons of foul weather a ship propelled by steam, or partly by steam and partly by sails, and performing a short voyage, shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and nine superficial feet available for each upper-deck passenger.

(4) But in seasons of foul weather a ship shall not carry upper-deck passengers unless she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather.

19. If a ship performing a short voyage takes additional passengers on board at an intermediate port or place, the master shall obtain from the officer appointed at that port or place under section 7 a supplementary certificate stating :—

Ship taking additional passengers at intermediate place.

- (a) the number of passengers so taken on board, and
- (b) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed and sufficient to supply the passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed by those rules :

Provided that if the certificate B held by the master of the ship states that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for her by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed and sufficient to supply the full number of passengers which she is capable of carrying, the master shall not be bound to obtain any such supplementary certificate.

20. When the ship reaches her final port or place of arrival, the master shall notify to such <sup>1</sup> officer, as the Governor General in Council appoints in this behalf the date and supposed cause of death of every passenger dying on the voyage.

Deaths on voyage.

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For officers appointed under this section in—

(1) Bombay, *see* Bom. R. & O., Vol. I.

(2) Madras, *see* Mad. R. & O., Vol. I.

(3) Punjab, *see* Punjab List of R. & O.

## CHAPTER IV.

## RULES FOR LONG VOYAGES.

Space to be  
available for  
passengers.

21. (1) A ship propelled by sails and performing a long voyage shall, subject to the provisions of this Act, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every passenger.

(2) A ship propelled by steam, or partly by steam and partly by sails and performing a long voyage, shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every passenger.

Statements  
concerning  
passengers.

22.<sup>1</sup> The master of a ship departing or proceeding on a long voyage from any port or place in British India shall sign two statements, specifying the number and the respective sexes of all the passengers, and the number of the crew, and shall deliver them to the officer appointed under section 7, who shall thereupon, after having first satisfied himself that the numbers are correct, countersign and return to the master one of the statements.

Deaths on  
voyage.

23. The master shall note in writing on the statement returned to him, and on any additional statement to be made under the next following section, the date and supposed cause of death of any passenger who may die on the voyage, and shall, when the ship arrives at her port or place of destination or at any port or place at which it may be intended to land passengers, and before any passengers leave the ship, produce the statement, with any additions thereto made, to a person lawfully exercising consular authority on behalf of Her Majesty at the port or place or to the Chief Customs-officer thereat or the officer (if any) appointed there under section 7.

Ship taking  
additional  
passengers at  
intermediate  
place.

24. (1) In either of the following cases, namely :—

- (a) if after the ship has departed or proceeded on a long voyage any additional passengers are taken on board at a port or place within British India appointed under this Act for the embarkation of passengers, or
- (b) if the ship upon her voyage touches or arrives at any such port or place, having previously received on board additional passengers at any place beyond British India,

the master shall obtain a fresh certificate to the effect of certificate B from the officer appointed at that port or place under section 7, and shall make additional statements specifying the number and the respective sexes of all the additional passengers.

(2) All the foregoing provisions of this Act with respect to certificate B.

<sup>1</sup> For notification issued under this section in conjunction with s. 20, see Bom. Local R. & O., Vol. I.

## (Chap. IV.—Rules for Long Voyages.)

and statements concerning passengers shall be applicable to any certificate granted or statement made under this section.

25. A ship carrying passengers from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam.

Certain ships to be propelled by steam.  
Certain ships to carry medical officer.

26. A ship carrying more than one hundred passengers from or to any port in British India to or from any port in the Red Sea shall have on board a medical officer licensed in accordance with the rules under this Act.

27. A ship carrying passengers from or to any port in British India other than Aden to or from any port in the Red Sea shall touch at Aden, and shall not leave that port without having obtained from the proper authority a clean bill of health.

Ships carrying passengers to or from port in Red Sea to touch at Aden.  
Bill of health at Aden.

28. The authority at Aden empowered to grant the bill of health shall refuse to grant it if the ship has on board a greater number of passengers than the number allowed for the ship by or under this Act, and may refuse to grant it if the requirements of any rule under this Act are not complied with on board the ship.

29. In the case of a ship carrying passengers from any port in British India other than Aden to any port in the Red Sea, the officer whose duty it is to grant a port-clearance for the ship shall not grant the clearance unless and until the master, owner or agent of the ship and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond, for the sum of five thousand rupees conditioned—

Bond where ship clears for port in Red Sea.

- (a) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty passengers, and
- (b) that the master and medical officer (if any) of the ship shall comply with, on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty passengers, the provisions of this Act and of such rules relating to ships carrying passengers between ports in British India and ports in the Red Sea as the Governor General in Council may make under this Act.

30. (1) The Local Government may<sup>1</sup> direct that no passenger shall be received on board any ship or any ship of a specified class carrying passengers from any port in British India to any port in the Red Sea unless and until

Power for Local Government to direct medical inspection

<sup>1</sup> As to inspection of ships and persons sailing to any port whatsoever, see s. 2 (2) (a) of the Epidemic Diseases Act, 1897 (3 of 1897), *infra*.



of passen-  
gers.

the passenger has been inspected, at such time and place, and in such manner as the Local Government may fix in this behalf, by a medical officer to be appointed by that Government for the purpose.

(2) If in the opinion of the officer making an inspection under the section a passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark.

## CHAPTER V.

### PENALTIES.

Penalty for  
ship unlaw-  
fully depart-  
ing or re-  
ceiving  
passengers  
on board.

31. If a ship departs or proceeds on a voyage from, or discharges passengers at, any port or place within British India in contravention of the provisions of section 6, sub-section (1), or section 9, or if a person is received as a passenger on board a ship in contravention of the provisions of section 6, sub-section (2), the master or owner shall, for every passenger carried in the ship, or for every passenger so discharged or received on board, be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to one month, or with both, and the ship, if found within two years in any port or place within British India, may be seized and detained by a Chief Customs-officer until the penalties incurred under this Act by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Act, with all costs, has been enforced, under the provisions of this Act:

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

Penalty for  
opposing  
entry on or  
inspection of  
ships.

32. If a person impedes or refuses to allow the entry or inspection authorized by or under this Act; he shall be punished with fine which may extend to five hundred rupees for each offence, or with imprisonment for a term which may extend to three months, or with both.

Penalty for  
not exhibit-  
ing copy of  
certificates.

33. If a master or owner without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of section 16 with respect to the posting of copies of certificates, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

Penalty for  
not comply-  
ing with  
requirements  
as to state-  
ments con-  
cerning pas-  
sengers and

34. If a master fails to comply with any of the requirements of section 22 or section 23, as to the statements concerning passengers, or wilfully makes any false entry or note in or on any such statement, or without reasonable excuse, the burden of proving which shall lie upon him, fails to obtain any such supplementary certificate as is mentioned in section 19, or to report deaths

as required by section 20, or to obtain any such fresh certificate, or to make any such statement of the number of additional passengers, as is mentioned in section 24, he shall be punished with fine which may extend to five hundred rupees for every such offence, or with imprisonment for a term which may extend to three months, or with both.

certain other matters.

35. If a master, after having obtained any of the certificates mentioned in section 9, section 19 or section 24, fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, her passengers or other matters to which the certificate relates, he shall be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months or with both.

Penalty for fraudulent alteration in ship after certificate obtained.

36. If a master without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any passenger the allowance of food, fuel and water prescribed by the rules under this Act, he shall be punished with fine which may extend to twenty rupees for every passenger who has sustained detriment by the omission.

Penalty for failing to supply passengers with prescribed provisions.

37. (1) If a ship carrying passengers to or from any port or place in British India has on board a number of passengers which is greater than the number allowed for the ship by or under this Act, the master and owner shall for every passenger over and above that number, be each punished with fine which may extend to twenty rupees, and the master shall further be liable to imprisonment for a term which may extend to one week in respect of each such passenger :

Penalty for having excessive number of passengers on board.

Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

(2) Any officer authorised in this behalf by the Local Government may cause all passengers over and above the number allowed by or under this Act to disembark and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Act, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

38. If a ship carrying passengers from any port or place beyond British India to any port or place in British India has on board a number of passengers greater either than the number allowed for the ship by or under this Act or than the number allowed by the license or certificate, if any, granted in respect of the ship at her port or place of departure, the master and owner shall, for every passenger in excess of that number, be each punished with fine which may extend to twenty rupees.

Penalty for bringing passenger from foreign port in excess of authorized number.

Penalty for landing passenger at a place other than that at which he has contracted to land.

39. If the master of a ship lands any passenger at any port or place other than the port or place at which the passenger may have contracted to land, unless with his previous consent, or unless the landing is made necessary by perils of the sea or other unavoidable accident, the master shall, for every such offence, be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

Penalty for making voyage in contravention of contract with passengers.

40. If a ship, otherwise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any express or implied contract or engagement with the passengers with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master and owner of certain ships not propelled by steam.

41. If a ship carrying passengers from or to any port in British India to or from any port in the Red Sea is not propelled principally by steam as required by section 25, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.

Penalty on master of certain ships sailing without medical officer.

42. If a ship carrying more than one hundred passengers from or to any port in British India to or from any port in the Red Sea has not on board a medical officer as required by section 26, the master of the ship shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty for not obtaining bill of health at Aden.

43. If in the case of a ship to which section 27 applies the master without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden, or leaves that port without having obtained a bill of health under that section, he shall, for every such offence, be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty on master or medical officer of certain ships disobeying rules.

44. If in the case of any such ship as is referred to in the last foregoing section the master or the medical officer, if any, of the ship without reasonable excuse, the burden of proving which shall lie upon him, breaks or omits or neglects to obey, any rule under this Act applicable to the ship, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master receiving passenger in con-

45. If the master of a ship to which a direction under section 30 applies knowingly receives on board the ship any person in contravention of that section, he shall be punished with fine which may extend to five hundred rupees

for each person so received, or with imprisonment which may extend to three months, or with both. travention of section 30.

*Procedure.*

46. (1) Offences against this Act shall be punishable by a Magistrate.

(2) If the person on whom a fine is imposed under this Act is the master or owner of a ship, and the fine is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the ordinary means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel. Adjudication of offences, and levy of fine by distress on ship.

47. For the purpose of the adjudication of penalties under this Act, every offence against its provisions shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found. Jurisdiction.

48. The penalties to which masters and owners of ships are made liable by this Act shall be enforced only on information laid at the instance of officers appointed to grant certificates under this Act, or, at any port or place where there is no such officer, at the instance of the Chief Customs-officer. Authority to institute proceedings for penalties.

49. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed, or in or towards payment of the expenses of the prosecution. Application of fines.

50. (1) Whenever in the course of any legal proceeding under this Act the testimony of a witness is required in relation to the subject-matter of the proceeding, any deposition which he may have previously made in relation to the same subject-matter before any Justice or Magistrate in Her Majesty's dominions (including all parts of India other than those subject to the same Local Government as the port or place where the proceeding is instituted), or before any British consular officer elsewhere, shall be admissible in evidence on proof that the witness cannot be found within the jurisdiction of the Court in which the proceeding is instituted : Depositions of absent witnesses.

Provided that the deposition shall not be admissible unless —

- (a) it is authenticated by the signature of the Justice, Magistrate or consular officer ;
- (b) it was made in the presence of the person accused ; and
- (c) the fact that it was so made is certified by the Justice, Magistrate or consular officer.

(Chap. VI.—*Supplemental Provisions.*)

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

## CHAPTER VI.

## SUPPLEMENTAL PROVISIONS.

Information to be sent to ports of embarkation and discharge.

51. (1) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place within British India at which a ship carrying passengers touches or arrives, shall, with advertence to the provisions of this Act, send any particulars which he may deem important respecting the ship, and the passengers carried therein, to the officer at the port or place from which the ship commenced her voyage, and to the officer at any other port or place within British India where the passengers or any of them embarked or are to be discharged.

(2) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place in British India at which a ship to which this Act applies touches or arrives, may enter on the ship and inspect her in order to ascertain whether the provisions of this Act as to the number of passengers and other matters have been complied with.

Report of Consul.

52. In any proceeding for the adjudication of any penalty incurred under this Act any document purporting to be a report of such particulars as are referred to in sub-section (1) of the last foregoing section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising consular authority on behalf of Her Majesty in any foreign port, shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Act is had.

Power for Governor General in Council and Local Government to make rules.

53. (1) The Governor General in Council may make rules<sup>1</sup> consistent with this Act to regulate, in the case of any ship or class of ships, all or any of the following matters:—

(a) the scale on which food, fuel and water are to be supplied to the passengers or to any class or classes of passengers, and the quality of the food, fuel and water;

(b) the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency;

<sup>1</sup> For rules see Notifications Nos. 1353 and 1354, dated 14th March, 1889, Genl. Stat. R. & O., Vol. II.

## (Chap. VI.—Supplemental Provisions.)

- (c) the licensing and appointment of medical officers in cases where they are required by this Act to be carried ;
  - (d) the boats, anchors and cables to be provided on board ;
  - (e) the instruments for purposes of navigation to be supplied ;
  - (f) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent such fires ;
  - (g) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys ;
  - (h) the functions of the master, medical officer (if any) and other officers of the ship during the voyage ;
  - (i) the access of between-decks passengers to the upper deck ; and,
  - (j) generally, to carry out the purposes of this Act.
- (2) The Local Government may, with the previous sanction of the Governor General in Council, make rules <sup>1</sup> consistent with this Act to regulate, in the case of any ship or class of ships,—
- (a) the local limits within which, and the time and mode at and in which, passengers are to be embarked or discharged at any port or place appointed under this Act in that behalf ; and
  - (b) the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take passengers on board.
- (3) In making a rule under this section the authority making it may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and when the breach is a continuing breach with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

54. The Local Government shall appoint <sup>2</sup> such persons as it thinks fit to exercise and perform the powers and duties which are conferred and imposed by this Act or may be conferred and imposed thereunder.

Appointment of officers.

55. The Governor General in Council may declare, by notification <sup>3</sup> in the Gazette of India, what shall be deemed to be, for the purposes of this Act, "seasons of fair weather" and "seasons of foul weather," and, for sailing-ships and steam-ships respectively, a "long voyage" and a "short voyage."

Power to declare what shall be deemed "seasons of fair weather" and "long voyages."

<sup>1</sup> For rules made under this section for Bombay, see Bom. Local R. & O., Vol. I.

<sup>2</sup> For instance of appointment made under s. 54—

(1) Burma, see Bur. R. M.

(2) Madras, see Mad. R. & O., Vol. I.

<sup>3</sup> See Notifications Nos. 1353 & 1354 dated respectively 14th March and 16th May, 1889, Genl. Stat. R. & O., Vol. II.

(*Chap. VI.—Supplemental Provisions. Schedule.—Enactments repealed.*)

Power to  
prescribe  
space to be  
available for  
passengers.

56. The Governor General in Council may by order prescribe<sup>1</sup> in the case of any ship or class of ships and for all or any voyages the number of superficial or of cubic feet of space to be available for passengers; and the order shall be alternative to, or override, as the Governor General in Council may direct, the provisions of sections 18 and 21 so far as they apply to that ship or class of ships.

Power to  
exempt ship  
from provisions  
of Act.

57. (1) The Local Government, with the previous sanction of the Governor General in Council, may, subject to such conditions as it thinks fit, exempt any ship or class of ships from any provision of this Act.

(2) In imposing a condition under this section the Local Government may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and when the breach is a continuing breach with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

## SCHEDULE.

### ENACTMENTS REPEALED.

(See section 4.)

Number and year.	Title.	Extent of repeal.
VIII of 1876 . . .	Native Passenger Ships Act, 1876 . . .	The whole.
XVII of 1883 . . .	Native Passenger Ships Act, 1883 . . .	The whole.
<sup>2</sup> VII of 1884 . . .	Indian Steam-ships Act, 1884 . . .	Section 41.

<sup>1</sup> See Notification No. 1356, dated 14th March, 1889, Genl. Stat. R. & O., Vol. II.

<sup>2</sup> Genl. Acts, Vol. III.

# THE INDIAN MARINE ACT, 1887.

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ACT No. XIV OF 1887.<sup>1</sup>

[30th June, 1887.]

## An Act for the better administration of Her Majesty's Indian Marine Service.

47 & 48 Vict.,  
c. 38. WHEREAS by the <sup>2</sup> Indian Marine Service Act, 1884, it is, among  
other things, enacted that the Governor General of India in Council  
shall have power, subject to the provisions contained in the <sup>3</sup> Indian Councils  
24 & 25 Vict.,  
c. 67. Act, 1861, as amended by subsequent Acts, at meetings for the purpose of  
making Laws and Regulations, to make laws for all persons employed or  
serving in, or belonging to, Her Majesty's Indian Marine Service :

Provided that—

- (a) a law made under that power shall not apply to any offence unless the vessel to which the offender belongs is at the time of the commission of the offence within the limits of Indian waters, which are defined by the said Indian Marine Service Act to include the high seas between the Cape of Good Hope on the west and the Straits of Magellan on the east, and all territorial waters between those limits ; and
- (b) the punishments imposed by any such law for offences shall be similar in character to, and shall not be in excess of, the punishments which may at the time of making the law be imposed for similar offences under the Acts relating to Her Majesty's Navy, except that in the case of persons other than Europeans or Americans imprisonment for any term not exceeding fourteen years, or transportation for life or any less term, may be substituted for penal servitude ;

And whereas it is further provided by the said Indian Marine Service Act that subject to the provisions of that Act a law made thereunder shall be of the same force and effect as an Act of Parliament and shall be taken notice of by all Courts of Justice in the same manner as if it were a Public Act of Parliament ;

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1887, Pt. V, p. 33 ; for Report of the Select Committee, *see* *ibid.*, p. 57, and for Proceedings in Council, *see* *ibid.*, Pt. VI, pp. 12, 15 and 46.

This Act has been declared in force in Upper Burma (except the Shan States), by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

<sup>2</sup> Coll. Stats. Ind., Vol. II.

<sup>3</sup> Coll. Stats. Ind., Vol. I.

## (Chap. I.—Preliminary.)

And whereas in pursuance of the power thus conferred and of all other powers vested in the Governor General in Council in this behalf it is expedient to make such laws as are mentioned in the said Indian Marine Service Act and to make provision in other particulars for the proper regulation of, and otherwise in relation to, the Indian Marine Service;

And whereas the Secretary of State for India in Council has given his previous approval to the passing of this Act;

It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

Title and  
commence-  
ment.

1. (1) This Act may be called the Indian Marine Act, 1887; and  
(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf.<sup>1</sup>

Definitions.

2. (1) In this Act, unless there is something repugnant in the subject or context,—

(a) “person subject to this Act” means a person who is employed or serves in, or belongs to,<sup>2</sup> [the Royal Indian Marine Service (herein referred to as “the Indian Marine Service” or “Her Majesty’s Indian Marine Service”)], and who, if he is not a gazetted officer, has been enrolled in that service in the manner provided by this Act:

<sup>3</sup>(b) “gazetted officer” means a person who, by virtue of his letter of appointment, is holding a position in the Indian Marine Service as—

Commander,  
Lieutenant,  
Sub-Lieutenant,

Chief Engineer,  
Engineer, or  
Assistant Engineer:

<sup>3</sup>(c) “warrant officer” means a person who, by virtue of his appointment, is holding a position in the Indian Marine Service as—

Assistant  
Gunner,

Carpenter,  
Clerk, or  
Engine-driver, first class:

<sup>1</sup> The Act came into force on the 15th October, 1887, see Genl. Stat. R. & O., Vol. II.

<sup>2</sup> These words were substituted for the words “the Indian Marine Service,” by s. 2 of the Indian Marine Act (1887) Amendment Act, 1899 (1 of 1899), Genl. Acts, Vol. V.

<sup>3</sup> Present clauses (b) and (c) were substituted for the original clauses by s. 3 of the Indian Marine Act (1887) Amendment Act, 1899 (1 of 1899), Genl. Acts, Vol. V.

## (Chap. I.—Preliminary.)

<sup>1</sup>(d) “petty officer” means a person who is employed in the Indian Marine Service as—

General Mess Steward,  
Chief Syrang of Lascars, first class,  
Chief Syrang of Lascars, second class,  
Syrang of Lascars, first class,  
Syrang of Lascars, second class,  
Sukkani,  
Tindal of Lascars, first class,  
Tindal of Lascars, second class,  
Engine-driver, second class,  
Syrang of Stokers, first class,  
Syrang of Stokers, second class,  
Tindal of Stokers, first class,  
Tindal of Stokers, second class,  
Carpenter's Mate, first class,  
Carpenter's Mate, second class,

Carpenter's Crew, first class,  
Carpenter's Crew, second class,  
Plumber,  
General Mess Butler, first class,  
General Mess Butler, second class,  
Cook, first class,  
Cook, second class,  
Ship's Steward,  
Tide-watcher,  
Kassab, first class,  
Kassab, second class,  
Pilot,  
Chart-room Attendant,  
Leadsman, or  
Interpreter:

(e) “superior officer,” used with reference to an officer of a rank mentioned in clause (b), clause (c) or clause (d) of this sub-section, means an officer of a rank mentioned before his in any of those clauses, and, used with reference to any other person subject to this Act, means an officer mentioned in any of those clauses:

(f) “commanding officer” means the officer in command of a vessel, whether by special appointment or by the rules or customs of the service, and includes, as regards any persons subject to this Act who are employed otherwise than on board the vessel to which they belong, such officer, if any, as the Governor General in Council appoints instead of the commanding officer of that vessel, to discharge the functions of commanding officer with respect to those persons:

(g) “enemy” includes a pirate or rebel:

(h) “Indian Marine Court” means an Indian Marine Court held under this Act:

(i) “Criminal Court” means a Court having ordinary criminal jurisdiction in British India or such a Court established elsewhere by the authority of the Governor General in Council: and

(j) “prescribed” means prescribed by rules made by the Governor General in Council.

<sup>2</sup> (2) The Governor General in Council may, by notification <sup>3</sup> in the Gazette of India, vary any of the definitions in clauses (b), (c) and (d) of

<sup>1</sup> Clause (d) was substituted for the original clause by s. 3 of the Indian Marine Act (1887) Amendment Act, 1899 (1 of 1899), Genl. Acts, Vol. V.

<sup>2</sup> This sub-section was substituted by s. 1 of the Indian Marine Act (1887) Amendment Act, 1888 (17 of 1888), *infra*.

<sup>3</sup> For notification varying the definitions of “gazetted officer,” “warrant officer” and “petty officer” in clauses (b), (c) and (d) of sub-section 1, see Genl. Stat. R. & O., Vol. II.

## (Chap. I.—Preliminary. Chap. II.—Offences and Punishments.)

sub-section (1) as occasion may appear to him to require, and the references to those clauses in the definition of the expression “superior officer” in clause (e) of that sub-section shall be construed to be references to them as varied by any notification published under this sub-section and for the time being in force.

Procedure on enrolment.

3. (1) A person to be enrolled in the Indian Marine Service shall be brought on to the quarter-deck or other suitable place on boardship or on shore, and the commanding or other prescribed officer shall then—

(a) cause to be read and explained to him the rules of the service,

(b) administer to him an oath of allegiance, and

(c) cause him to sign a roll.

(2) The rules, oath and roll shall be in prescribed forms.

General power to make rules.

4. In addition to any other rules which may be made under this Act, the Governor General in Council may, by notification in the Gazette of India, make<sup>1</sup> rules consistent with this Act for the guidance of officers, whether military, Indian Marine, civil or political, in all matters connected with its enforcement.

## CHAPTER II.

### OFFENCES AND PUNISHMENTS.

#### *Misconduct in the Presence of the Enemy.*

Misconduct of commanding officer in action.

5. If a commanding officer—

(i) upon signal of battle, or on sight of a vessel of an enemy which it is his duty to engage, does not use his utmost exertion to bring his vessel into action, or

(ii) does not during an action, in his own person and according to his rank, encourage his inferior officers and men to fight courageously, or

(iii) when capable of making a successful defence, surrenders his vessel to the enemy, or

(iv) in time of action improperly withdraws from the fight, he shall,—

(a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned;

(b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

<sup>1</sup> For rules made under s. 4 in conjunction with ss. 68 and 70, see Genl. Stat. B. & O., Vol. II.

*(Chap. II.— Offences and Punishments.)*

## 6. If any officer subject to this Act—

Not pursuing  
the enemy  
or not assist-  
ing a friend  
in view.

- (i) forbears to pursue the chase of any enemy beaten or flying, or
- (ii) does not relieve and assist a known friend in view to the utmost of his power, or

(iii) improperly forsakes his station,  
he shall

- (a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned ;
- (b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

## 7. If any person subject to this Act—

Delaying or  
discouraging  
action or ser-  
vice, or de-  
serting post  
or sleeping  
on watch.

- (i) when any action, or service is commanded, presumes to delay or discourage the action or service upon any pretence whatever, or
- (ii) in the presence or vicinity of the enemy deserts his post or sleeps upon his watch,

he shall suffer penal servitude or such other punishment as is hereinafter mentioned.

8. If any person subject to this Act, other than a commanding officer, does not, when ordered to prepare for action, or during an action, use his utmost exertion to carry the orders of his superior officer into execution, he shall,—

Misconduct  
of subordinate  
officers  
and men in  
action.

- (a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned,
- (b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

*Communications with the Enemy.*

## 9. If any person subject to this Act—

Correspond-  
ing, etc., with  
the enemy.

- (i) treacherously holds correspondence with or gives intelligence to the enemy, or
- (ii) fails to make known to the proper authorities any information which he may have received from the enemy, or
- (iii) relieves the enemy with any supplies,

he shall suffer penal servitude or such other punishment as is hereinafter mentioned.

10. If any person subject to this Act holds, without any treacherous intention, any improper communication with the enemy, he shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Improper  
communica-  
tion with the  
enemy.



*(Chap. II.—Offences and Punishments.)**Neglect of Duty.*

Neglect of  
duty.

11. If a person subject to this Act deserts his post or sleeps upon his watch, or negligently performs the duty imposed on him, he shall suffer imprisonment or such other punishment as is hereinafter mentioned.

*Mutiny.*

Mutiny ac-  
companied  
by violence.

12. Where a mutiny is accompanied by violence, a person subject to this Act who joins therein shall suffer death or such other punishment as is hereinafter mentioned ; and

a person subject to this Act who does not use his utmost exertions to suppress the mutiny shall,—

- (a) if he has acted traitorously, suffer death or such other punishment as is hereinafter mentioned ;
- (b) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned ;
- (c) if he has acted from negligence, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Mutiny not  
accompanied  
by violence.

13. Where a mutiny is not accompanied by violence, a ringleader thereof, being a person subject to this Act, shall suffer death or such other punishment as is hereinafter mentioned ; and all other persons subject to this Act who join in the mutiny, or do not use their utmost exertions to suppress it, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Inciting to  
mutiny.

14. A person subject to this Act who endeavours to seduce any other person subject to this Act from his duty or allegiance to Her Majesty, or endeavours to incite him to commit any act of mutiny, shall suffer death or such other punishment as is hereinafter mentioned.

Mutinous  
assembly or  
uttering  
seditious  
words.

15. A person subject to this Act who makes or endeavours to make any mutinous assembly, or leads or incites any other person to join in any mutinous assembly, or utters any words of sedition or mutiny, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Concealing  
traitorous,  
mutinous or  
seditious  
practice,  
design or  
words.

16. A person subject to this Act who wilfully conceals any traitorous or mutinous practice or design, or any seditious or mutinous words spoken against Her Majesty, or any practice, design or words tending to the hindrance of the service, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Striking or  
using vio-  
lence to

17. A person subject to this Act who strikes or attempts to strike, or uses or attempts to use any violence against, his superior officer, being in the exe-

## (Chap. II.—Offences and Punishments.)

cution of his office, or otherwise, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned. superior officer.

*Insubordination.*

18. A person subject to this Act who wilfully disobeys any lawful command of his superior officer, or uses threatening or insulting language, or behaves with contempt, to his superior officer, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned. Disobedience or using threatening language to superior officer.

*Desertion and Absence without Leave.*

19. A person subject to this Act who—

Desertion.

(i) absents himself from his vessel or from the place where his duty requires him to be, with the intention of not returning to that vessel or place ; or

(ii) at any time and under any circumstances, when absent from his vessel or place of duty, does any act which shows that he has an intention of not returning to that vessel or place ;

shall be deemed to have deserted, and shall suffer penal servitude or such other punishment as is hereinafter mentioned ;

and in every such case he shall forfeit all pay, bounty, salvage, prize-money and allowances which may have been earned by him and all annuities, pensions, gratuities, medals and decorations which may have been granted to him, and also all clothes and effects which he may have left on board the vessel or at the place from which he has deserted, unless it is otherwise directed by the Court by which he is tried or by the Governor General in Council.

20. A person subject to this Act who endeavours to seduce any other person subject to this Act to desert shall suffer imprisonment or such other punishment as is hereinafter mentioned. Inducing person to desert.

21. A person subject to this Act who, without being guilty of desertion, improperly leaves his vessel or place of duty shall suffer imprisonment or such other punishment as is hereinafter mentioned. Breaking out of vessel.

22. A person subject to this Act who, without being guilty of desertion or of improperly leaving his vessel or place of duty, is absent without leave shall suffer imprisonment for any period not exceeding ten weeks or such other punishment as the circumstances of the case may require. Absence without leave.

## (Chap. II.— Offences and Punishments.)

*Miscellaneous Offences.*

Drunkenness  
on boardship  
or on duty.

23. A person subject to this Act who is guilty of any drunkenness on boardship or on duty shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Cruelty or  
misconduct  
by officer.

24. An officer subject to this Act who is guilty of cruelty, or of any scandalous or fraudulent conduct, or of any other conduct unbecoming the character of an officer, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Suffering  
vessel to be  
lost or im-  
perilled.

25 A person subject to this Act who designedly or negligently, or by any default, loses, strands or hazards, or suffers to be lost, stranded or hazarded, any vessel of the Indian Marine Service, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Unlawful  
taking of  
goods on  
board.

26 An officer in command of an Indian Marine vessel who receives on board, or permits to be received on board, the vessel any goods or merchandise whatsoever, other than for the sole use of the vessel, except gold, silver or jewels, and except goods and merchandise, belonging to any merchant or on board any vessel which may be shipwrecked or in imminent danger either on the sea or in some port, creek, harbour or river, for the purpose of preserving them for their proper owners, or except such goods or merchandise as he may at any time be ordered to take or receive on board by order of the Government or his superior officer, shall be dismissed from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Embezzling  
public stores.

27. A person subject to this Act who wastefully expends, embezzles or fraudulently buys, sells or receives any ammunition, provisions or other public stores, or knowingly permits any such wasteful expenditure, embezzlement or fraudulent purchase, sale or receipt, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Arson.

28. A person subject to this Act who unlawfully sets fire to any dockyard, victualling yard, steam-factory yard, arsenal, magazine, building or stores or to any ship, boat or other craft or furniture thereunto belonging, not being the property of an enemy, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Making false  
documents.

29. A person subject to this Act who knowingly makes or signs a false muster or record or other official document, or who commands, counsels or procures the making or signing thereof, or who aids or abets any other person in the making or signing thereof, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

*(Chap. II.—Offences and Punishments.)*

30. A person subject to this Act who wilfully does any act or wilfully disobeys any order, whether in hospital or elsewhere, with intent to produce or to aggravate any disease, or infirmity or to delay his cure, or who feigns any disease, infirmity or inability to perform his duty, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Malingering  
or misconduct  
in hospital.

31. A person subject to this Act who has any cause of complaint, either upon the ground of the unwholesomeness of the victuals or upon any other ground, shall quietly make the same known to his commanding officer, and that officer shall inquire into the complaint and shall, as far as he is able, cause the same to be presently remedied, or shall report the case to the Director of Marine; and any person subject to this Act who, upon any pretence whatever attempts to stir up any disturbance on any such ground shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Creating disturbance on  
account of  
complaints.

32. A person subject to this Act who is guilty of any act, disorder or neglect, to the prejudice of good order and discipline, not hereinbefore specified, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned:

Offences to  
the prejudice  
of good order  
and discipline  
not otherwise  
specified.

Provided that, if such act, disorder, or neglect constitutes an offence punishable under the law of British India with imprisonment for a term which may exceed seven years, the person guilty thereof shall not be tried under this Act as for an offence punishable under this section.

33. A person subject to this Act who does not use his utmost exertion to detect, arrest and bring to punishment all offenders against this Act, and does not assist the officers appointed for that purpose, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Not assisting  
in arresting  
offenders.

34. A person subject to this Act who being duly summoned or ordered to attend as a witness before an Indian Marine Court or a commanding officer exercising jurisdiction under this Act, or to produce any document in his power or control before such a Court or officer, refuses, or neglects to attend to give his evidence upon oath or to produce the document, or behaves, with contempt to the Court or officer, shall suffer imprisonment which may extend to three months in the case of such refusal or neglect and to one month in the case of such contempt.

Contempt of  
Court.

35. A person subject to this Act who, when examined on oath before an Indian Marine Court or a commanding officer exercising jurisdiction under this Act, intentionally gives false evidence, shall suffer imprisonment for a term which may extend to seven years.

False evidence.

*(Chap. II.—Offences and Punishments.)**Offences punishable by Ordinary Law.*

Offences  
punishable by  
ordinary law.

36. If a person subject to this Act is guilty of any criminal offence which if committed in British India would be punishable by the law of British India, he shall, subject to the other provisions of this Act, be liable to the same punishment as might for the time being be awarded in British India by any ordinary criminal tribunal competent to try him if the offence had been committed in British India :

Provided that, except as authorised by the <sup>1</sup> Indian Marine Service Act, 47 & 48 Vict. c. 38. 1884 and by this Act, the punishment awarded for the offence shall not be dissimilar in character to or in excess of the punishment which may at the time of the passing of this Act be imposed for a similar offence under the Acts relating to Her Majesty's Navy.

*Punishments.*

Schedule of  
punishments.

37. (1) The following punishments may be inflicted under this Act :—

- (a) death ;
- (b) penal servitude ;
- (c) dismissal with disgrace from the Indian Marine Service ;
- (d) imprisonment ;
- (e) dismissal from the Indian Marine Service ;
- (f) loss of seniority as an officer for a specified time or otherwise ;
- (g) dismissal from the vessel to which the offender belongs ;
- (h) severe reprimand, or reprimand ;
- (i) disgrating a warrant-officer or petty officer or any other person below that rank ;
- (j) forfeiture of pay, bounty, salvage, prize-money and allowances earned by, and of all annuities, pensions, gratuities, medals and decorations granted to, the offender, or of any one or more of the above particulars ; also, in the case of desertion, of all clothes and effects left by the deserter on board the vessel to which he belongs.

(2) Each of the above punishments shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

Regulations  
as to the in-  
fliction of  
punishments.

38. The following regulations shall apply to the infliction of punishments :—

(1) The punishment of penal servitude may, except when otherwise provided by this Act, be inflicted for the term of life or for any other term not less than four years.

(2) In the case of persons other than Europeans or Americans, transportation for life or for any term not less than four years, or imprisonment for

*(Chap. II.—Offences and Punishments.)*

any term not exceeding fourteen years, shall be substituted for penal servitude.

(3) The punishment of penal servitude or of transportation, or of imprisonment for more than two years when substituted for penal servitude under the provisions of this Act, shall in all cases involve dismissal from the Indian Marine Service, with or without disgrace, as the prescribed authority may direct.

(4) Dismissal with disgrace shall involve in all cases forfeiture of all pay, bounty, salvage, prize-money and allowances earned by, and of all annuities, pensions, gratuities, medals and decorations granted to, the offender, and an incapacity to serve the Government again in any capacity.

(5) A sentence of dismissal with disgrace may in any case be accompanied by a sentence of imprisonment.

(6) Except as otherwise provided by this Act, a sentence of imprisonment passed otherwise than under clause (2) of this section may extend to two years.

(7) A sentence of imprisonment may be accompanied by a direction that the imprisonment shall be rigorous for the whole or any part of the term thereof.

(8) When a sentence of imprisonment is passed on a warrant-officer or petty officer or any other person below that rank, it may be accompanied by a direction disrating the officer or person.

(9) A sentence of imprisonment shall in all cases be accompanied by forfeiture of pay and allowances during the imprisonment.

39. Subject to the foregoing regulations and the other provisions of this Act, where any punishment is specified by this Act as the penalty for an offence, and it is further declared that another punishment may be awarded in respect of the same offence, the expression "other punishment" shall be deemed to comprise any one or more of the punishments inferior in degree to the specified punishment according to the scale set forth in section 37.

Scale of  
punishments.

40. No person, unless he is an offender who has avoided arrest or fled from justice, shall be tried or punished in pursuance of this Act for any offence committed by him unless the trial takes place within three years from the commission of the offence, or within one year after the return of the offender to British India when he has been absent from British India during that period of three years.

Limitation of  
time for  
trials.

## CHAPTER III.

## JURISDICTION AND POWERS.

Offences cognizable by Criminal Courts and Indian Marine Courts respectively.

41. Subject to the provisions of this Act, and, as respects Criminal Courts, subject to the law relating to criminal procedure for the time being applicable to those Courts, Criminal Courts and Indian Marine Courts or both shall have jurisdiction in respect of the offences punishable under this Act as specified in the following table :—

Section of this Act.	Marginal note.	Courts having jurisdiction.
Section 5	Misconduct of commanding officer in action.	Criminal Courts and Indian Marine Courts.
" 6	Not pursuing the enemy or not assisting a friend in view.	
" 7	Delaying or discouraging action or service or deserting post or sleeping on watch.	
" 8	Misconduct of subordinate officers and men in action.	
" 9	Corresponding, etc., with the enemy.	
" 10	Improper communication with the enemy.	Indian Marine Courts.
" 11	Neglect of duty . . . . .	
" 12	Mutiny accompanied by violence . . . . .	
" 13	Mutiny not accompanied by violence . . . . .	
" 14	Inciting to mutiny . . . . .	
" 15	Mutinous assembly or uttering seditious words . . . . .	Criminal Courts and Indian Marine Courts.
" 16	Concealing traitorous, mutinous or seditious practice, design or words.	
" 17	Striking or using violence to superior officer . . . . .	
" 18	Disobedience or using threatening language to superior officer.	
" 19	Desertion . . . . .	
" 20	Inducing any person to desert . . . . .	Indian Marine Courts.
" 21	Breaking out of vessel . . . . .	
" 22	Absence without leave . . . . .	
" 23	Drunkenness on boardship or on duty . . . . .	
" 24	Cruelty or misconduct by officer . . . . .	
" 25	Suffering vessel to be lost or imperilled . . . . .	Criminal Courts and Indian Marine Courts.
" 26	Unlawful taking of goods on board . . . . .	
" 27	Embezzling public stores . . . . .	
" 28	Arson . . . . .	
" 29	Making false documents . . . . .	
" 30	Malingering or misconduct in hospital . . . . .	Indian Marine Courts.
" 31	Creating disturbance on account of complaints . . . . .	
" 32	Offences to the prejudice of good order and discipline not otherwise specified.	
" 33	Not assisting in arresting offenders . . . . .	
" 34	Contempt of Court . . . . .	
" 35	False evidence . . . . .	Criminal Courts.
" 36	Offences punishable by ordinary law . . . . .	

<sup>1</sup> See now the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

## (Chap. III.—Jurisdiction and Powers.)

## 42. Subject as aforesaid—

- (a) a Criminal Court may pass a sentence of death, penal servitude, transportation or imprisonment; and
- (b) an Indian Marine Court may pass any sentence authorised by this Act except a sentence of death, penal servitude or transportation or of imprisonment for a term exceeding two years.

Power to pass sentences.

43. (1) An offence triable by an Indian Marine Court and committed by a person other than a gazetted officer may, under such regulations as the Governor General in Council may make, be summarily tried and punished by the commanding officer of the offender.

Jurisdiction and powers of commanding officers.

(2) Subject to the provisions of this Act and to such restrictions as the Governor General in Council may impose, a commanding officer may pass a sentence of imprisonment for a period not exceeding three months on an offender below the position of petty officer, and may disrate any warrant-officer or petty officer or any other person below that rank.

44. A person subject to this Act who is accused of an offence to which this Act applies may be tried and punished for the offence by a Criminal Court in any place where he may happen to be in the same manner as if the offence had been committed in that place.

Place of trial.

45. Where such an offence has been committed by any person while subject to this Act, he may be taken into custody and be tried and punished for the offence, although he has ceased to be subject to this Act, in like manner as he might have been taken into custody and tried and punished if he had continued to be so subject.

Jurisdiction over person ceasing to be subject to Act.

46. When a person subject to this Act is accused of an offence in respect of which a Criminal Court has jurisdiction over him under this Act or otherwise the following rules shall apply, namely :—

Case of person charged with an offence cognizable by a Criminal Court.

- (a) any person subject to this Act shall, on application made to him by the Court, assist in arresting and securing the accused, and the commanding officer shall, if so required by the Court, deliver the accused to the Court ;
- (b) when no requisition is made under clause (a), the commanding officer may, if he thinks fit, place the accused in custody with a view to delivering him up to such Criminal Court as appears to him most convenient in all the circumstances of the case.

47. When a person subject to this Act is accused of an offence in respect of which an Indian Marine Court or a commanding officer has jurisdiction

Case of person charged with an



*(Chap. III.—Jurisdiction and Powers.)*

offence cognizable by an Indian Marine Court or commanding officer.

under this Act, and that person is within the jurisdiction of any civil, political or police officer, that officer shall, upon an application to that effect made to him by the commanding officer of that person or any prescribed authority, aid in the arrest of the person and deliver him when arrested into such custody as the commanding officer or the prescribed authority may require.

Conflict of jurisdiction.

48. When an Indian Marine Court or commanding officer under this Act, and a Criminal Court under this Act or otherwise, have concurrent jurisdiction in respect of an offence, and there is a difference of opinion as to the tribunal before which the person accused of the offence should be proceeded against, either tribunal shall, on the requisition of the other, stay proceedings pending a reference to the Governor General in Council, whose order as to the tribunal before which the proceedings are to be had shall be final.

Previous conviction or acquittal.

49. An offender shall not be tried by an Indian Marine Court or by his commanding officer for any offence of which he has been convicted or acquitted by a Criminal Court or an Indian Marine Court or, in exercise of the powers conferred by section 43, by his commanding officer.

Application of Act XV of 1869 to Indian Marine Courts.

50. Where a person liable to be tried by an Indian Marine Court under this Act is in confinement in pursuance of a sentence of a Criminal Court, the Director of Marine or other prescribed authority may make an order in the form in Schedule B to the<sup>1</sup> Prisoners' Testimony Act, 1869, directed to the officer in charge of the place in which the person is confined, and the provisions of that Act with respect to compliance with any order made thereunder shall, so far as they can be made applicable, apply in the case of any order made under this section.

Powers of Governor General in Council in respect of sentences.

51. The Governor General in Council may suspend, annul or modify any sentence passed by an Indian Marine Court or a commanding officer under this Act, or substitute a punishment inferior in degree for the punishment involved in any such sentence, or remit the whole or any portion of the punishment involved in any such sentence, or remit the whole or any portion of any punishment into which the punishment involved in any such sentence has been commuted; and any sentence so modified shall, subject to the provisions of this Act, be valid, and shall be carried into execution as if it had been originally passed with such modification by the Court or officer, but so that the punishment involved in any sentence be not increased by any such modification.

<sup>1</sup> See now the Prisoners Act, 1900 (8 of 1900), Genl. Acts, Vol. 5, by which this has been repealed.

## CHAPTER IV.

## INDIAN MARINE COURTS.

*Constitution of the Court.*

52. (1) The following authorities shall have power to convene Indian Marine Courts, namely :—

Power to  
convene  
Indian  
Marine  
Court.

(a) the Governor General in Council ;

(b) the Director of Marine ;

(c) an officer empowered in that behalf by warrant of the Governor General in Council :

Provided that an Indian Marine Court assembled for the trial of a gazetted officer shall be convened only by, or with the previous sanction of, the Governor General in Council.

(2) When a ship or ships is or are detached on separate service, and when immediate example is necessary and without detriment to the public service reference cannot be made to superior authority, the officer in command of the ship or ships may, without warrant, convene an Indian Marine Court for the trial of any person under his command being subject to this Act and below the rank of a gazetted officer.

53.<sup>1</sup> (1) An Indian Marine Court shall consist of a president and not less than two, or more than four, other members, such members to be of rank not inferior to that of Lieutenant.

Composition  
of Indian  
Marine  
Court.

<sup>1</sup>(2) The president of an Indian Marine Court for the trial of a Commander shall be of rank not below that of Commander, and two at least of the other officers composing the Court shall be of rank not below that of Commander.

<sup>1</sup>(3) Except in the case of an Indian Marine Court convened under section 52, sub-section (2), the president of an Indian Marine Court for the trial of any person below the grade of Commander shall be of rank not below that of Commander.

(4) A person acting as prosecutor shall not be a member of the Court.

(5) An officer convening an Indian Marine Court shall not sit thereon except as permitted by the proviso to sub-section (1).

(6) The president and the other members of every Indian Marine Court shall be named by the authority convening the same.

(7) When an Indian Marine Court, after the commencement of the trial, is reduced to a less number than three members, it shall be deemed to be dissolved.

<sup>1</sup> Sub-sections (1), (2) and (3) were substituted for the original sub-sections by s. 4 (1) of the Indian Marine Act (1887) Amendment Act, 1899 (1 of 1899), Genl. Acts, Vol. V.

*(Chap. IV.—Indian Marine Courts.)*

(5) In the case of the death or unavoidable absence of the president of an Indian Marine Court, the next senior member of the Court, if qualified under sub-section (2) or sub-section (3), as the case may be, shall take the place of the president without special appointment as such.

(9) If such next senior member is not qualified as aforesaid, the Court shall be deemed to be dissolved.

<sup>1</sup>(10) The seniority and precedence of officers serving on the same Indian Marine Court shall be governed by their seniority as shown in the latest Indian Marine List. The fact of any officer bearing a superior title by virtue of an appointment which he may for the time being be holding, shall not give him seniority or precedence over any officer serving with him on the Indian Marine Court who may be senior to him on the Indian Marine List.

<sup>1</sup>(11) The authority convening an Indian Marine Court shall, when practicable, appoint a Judge Advocate to every trial, who shall be, if possible, an officer of the Judge Advocate-General's Department.

<sup>1</sup>(12) The authority convening an Indian Marine Court shall also appoint a person as Provost-Marshall, who shall be responsible for the arrest and safe custody of the prisoner or prisoners as directed, until the decision of the confirming authority is made known and communicated to him by the convening authority.

*Procedure at the Trial.*

Place of sitting of Indian Marine Court.

54. An Indian Marine Court shall be held on board one of Her Majesty's Indian Marine vessels or on land.

Challenge.

55. As soon as an Indian Marine Court is assembled, the names of the members of the Court shall be read over to the prisoner, who shall be asked if he objects to being tried by any of them; if the prisoner objects to any member, the objection shall be decided by the Court; if the objection is allowed, the place of the member objected to shall be filled up by the officer next in seniority available for the duty who is not on the Court, subject to the regulations contained in section 53, sub-sections (2), (3), (4) and (5):

Provided that where the Court is composed as in the proviso to section 53, sub-section (1), and no officer qualified under that section is available to take the place of the officer objected to, the Court shall, after recording the objection, proceed with the trial in like manner as if the objection had been disallowed.

56. (1) Before an Indian Marine Court proceeds to try a prisoner, an oath shall be made by every member of the Court in the prescribed manner.

<sup>1</sup> Sub-sections (10), (11) and (12) were added by s. 4 (2) of the Indian Marine Act (1887) Amendment Act, 1899 (1 of 1899), Genl. Acts, Vol. V.

*(Chap. IV.—Indian Marine Courts.)*

(2) An oath shall be made in the prescribed manner by any person who gives evidence or acts as an interpreter before an Indian Marine Court.

57. When no specific charge is made against any person subject to this Act for, or in respect, or in consequence of, the wreck, loss, destruction or capture of any vessel, in the Indian Marine Service, all the officers and crew of the vessel may, if the authority convening the Court thinks fit, be tried together before one and the same Indian Marine Court; and any of them, when upon his trial, may be called upon to give evidence on oath touching any of the matters then under inquiry, but no person shall be obliged to give any evidence which may tend to criminate himself.

Trial of officers and crew by one Court.

58. (1) If by reason of the illness of the prisoner before the finding it is impossible to continue the trial, an Indian Marine Court shall be deemed to be dissolved :

Dissolution of Court on illness of prisoner.

Provided that, where more prisoners than one are being tried and the trial of only one or some of them is rendered impossible by illness, the Court may, if it sees fit, continue the trial of the other or others, and, where the Court so continues the trial, it shall be deemed to have been dissolved only with respect to the prisoner or prisoners whose illness caused the continuance of his or their trial to be impossible.

(2) When the illness with which a prisoner is affected is insanity, the Court shall proceed, as nearly as circumstances admit, in the same manner as a Magistrate or Court may proceed, under section 466 of the Code of Criminal Procedure, 1882, when an accused person is found to be of unsound mind and incapable of making his defence.

X of 1882.

59. Subject to the provisions of the last foregoing section, where an Indian Marine Court is dissolved under that section or section 53, sub-section (7) or sub-section (9), the proceedings are null and void, and the prisoner may be tried before another Indian Marine Court on the same charge or charges.

Re-trial of prisoner after dissolution of Court.

60. The president may, on any deliberation among the members, cause an Indian Marine Court to be cleared of all other persons.

Clearing of Court.

61. Every decision of an Indian Marine Court shall be passed by a majority of votes, and where there is an equality of votes the president shall have a second or casting vote :

Decision of Court.

Provided that if there is an equality of votes on the finding the decision shall be in favour of the prisoner.

<sup>1</sup> See now the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol V.

*(Chap. IV.—Indian Marine Courts.*

Summoning  
witnesses.

62. (1) Every person who may be required to give evidence or to produce a document before an Indian Marine Court shall be summoned in the prescribed manner.

(2) A summons issued under this section may be sent to any officer exercising magisterial powers within whose jurisdiction the person summoned may be or resides, and the officer shall give effect to the summons as if the witness were required to attend in his Court.

Summary  
punishment  
of certain  
contempts.

63. When a person subject to this Act who, being duly summoned or ordered to attend as a witness before an Indian Marine Court, behaves with contempt to the Court, the Court, if it thinks fit, instead of reserving him for trial by another Court for an offence under section 34, may by order under the hand of the president, sentence him to imprisonment for a term which may extend to one month.

*Confirmation of Findings and Sentences.*

Submission  
of proceed-  
ings to con-  
firming au-  
thority.

64. (1) The president of an Indian Marine Court shall date and sign the proceedings of the Court and submit them, as soon as possible after their completion, to the confirming authority.

(2) If the Court has made a recommendation to mercy, the recommendation shall be recorded and submitted to the confirming authority as part of the proceedings.

Confirmation  
of findings  
and senten-  
ces.  
Confirming  
authority.

65. A finding or sentence of an Indian Marine Court shall not be valid except in so far as it may be confirmed by the confirming authority.

66. (1) The confirming authority shall ordinarily be the authority convening the Court.

(2) But if the Court was convened for the trial of a gazetted officer with the previous sanction of the Governor General in Council, or if in the case of a Court convened for the trial of any other person subject to this Act, the Governor General in Council is of opinion that the authority convening the Court cannot act, or cannot conveniently act, as the confirming authority, the confirming authority shall be the Governor General in Council.

(3) The fact that the Governor General in Council has acted as the confirming authority with respect to any finding or sentence shall be conclusive proof that he was the proper confirming authority with respect thereto.

Powers of  
confirming  
authority.

67. (1) The confirming authority may send back the finding and sentence of an Indian Marine Court, or either of them, for revision; and, on the finding or sentence being sent back, the Court may, if so directed by the confirming authority, receive additional evidence.

*(Chap. IV.—Indian Marine Courts.*

(2) Where the finding only is sent back for revision, the Court may revise the sentence also.

(3) The confirming authority may, in confirming the sentence of an Indian Marine Court,—

(a) reduce the punishment thereby awarded, or commute that punishment to any other punishment of inferior degree to which the offender might have been sentenced by the Court ;

(b) suspend for such time as seems expedient the execution of the sentence ;

(c) if the finding or sentence is informally expressed, vary the form thereof, or, if the sentence is invalid, substitute a valid sentence therefor.

(4) Notwithstanding any error, omission or irregularity in any proceeding of an Indian Marine Court, the confirming authority may confirm the finding or sentence of the Court, or either of them, unless the error, omission or irregularity has, in the opinion of that authority, occasioned a failure of justice.

*Evidence.*

of 1872.

68. The <sup>1</sup>Indian Evidence Act, 1872, subject to such modifications therein as the Governor General in Council may, by notification in the Gazette of India, direct, shall apply to all proceedings before Indian Marine Courts.

Law of evidence applicable.

*Preservation of Proceedings.*

69. (1) The proceedings of all Indian Marine Courts shall be preserved in the office of the Director of Marine for not less than seven years in the case of the trial of a gazetted officer, or than three years in the case of any other person.

Preservation of Indian Marine Court proceedings and grant of copies.

(2) Any person tried by an Indian Marine Court shall be entitled, on demand at any time after the confirmation of the finding and sentence of the Court and before the proceedings are destroyed, to obtain from the officer or person having the custody of the proceedings a copy thereof, upon payment for the same at the prescribed rate.

*Power to make Rules respecting Procedure.*

70. (1) The Governor General in Council may make rules <sup>2</sup> to regulate the procedure of Indian Marine Courts, and for the purpose of carrying this

Power to make rules respecting procedure.

<sup>1</sup> Genl. Acts, Vol. II.

<sup>2</sup> For rules made under ss. 68 and 70 in conjunction with s. 4 to regulate the proceedings of Indian Marine Courts and certain other matters, see Genl. Stat. R. & O., Vol. II.

(Chap. IV.—Indian Marine Courts. Chap. V.—Supplemental Criminal Provisions.)

Act into execution, so far as relates to the investigation, trial and punishment of offences triable by those Courts.

(2) The Governor General in Council may by any such rule confer on an Indian Marine Court any power (other than a power to try an accused person or pass a sentence) conferred on a Court of original criminal jurisdiction by the <sup>1</sup> Code of Criminal Procedure, 1882.

X of 1882.

<sup>2</sup>Supplemental.

Provision in case of wreck, loss, destruction or capture of Indian Marine vessel.

<sup>2</sup>70A. When an Indian Marine vessel is wrecked, lost, destroyed or captured by the enemy, it shall, for the purposes of this Act, be deemed to remain an Indian Marine vessel until her crew are regularly removed into some other Indian Marine vessel or until a Court of Inquiry has been held into the cause of the wreck, loss, destruction or capture thereof.

## CHAPTER V.

### SUPPLEMENTAL CRIMINAL PROVISIONS.

#### *Procedure of Criminal Courts beyond British India.*

Procedure of Criminal Courts beyond British India.

71. The <sup>1</sup> law relating to criminal procedure for the time being in force in British India shall, subject to such modifications as the Governor General in Council, by notification in the Gazette of India, directs, apply to all proceedings under this Act in Criminal Courts beyond the limits of British India.

#### *Arrest.*

Arrest of offenders.

72. The following rules shall apply to persons subject to this Act when charged with offences under this Act :—

(1) Every such person shall be placed in custody, but no person shall be detained in custody longer than is necessary for the purposes of justice.

(2) "Custody" means, according to the usage of the service, the putting of the offender under arrest or the putting him in confinement.

(3) Any officer, or if more officers than one are present the senior of them, may order into custody any other person of inferior rank subject to this Act.

(4) The charge made against every person taken into custody shall, without unnecessary delay, be investigated by his commanding officer or other prescribed authority ; and, as soon as may be, proceedings shall be taken for punishing the offender or discharging him from custody.

<sup>1</sup> See now the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol V.

<sup>2</sup> This heading and s. 70A were inserted by s. 5 of the Indian Marine Act (1887) Amendment Act, 1899 (1 of 1899), Genl. Acts, Vol. V.

*(Chapter V.—Supplemental Criminal Provisions.)*

73. A commanding officer shall, upon an investigation being made into a charge against a person subject to this Act and under his command of having committed an offence under this Act, dismiss the charge if he thinks that it ought not to be proceeded with; but when he thinks the charge ought to be proceeded with, he shall, subject to the provisions of this Act, take steps without delay for bringing the offender to trial.

Power of commanding officer.

*Execution of Sentences of Indian Marine Courts and Commanding Officers.*

74. (1) Every term of imprisonment awarded in pursuance of the sentence of an Indian Marine Court or of a commanding officer exercising jurisdiction under this Act shall, except as provided in sub-section (2), be deemed to commence on the day on which the original sentence was signed by the president of the Court or pronounced by the commanding officer.

Commencement of sentences of imprisonment.

(2) When a person already undergoing a sentence of penal servitude, transportation or imprisonment is sentenced by an Indian Marine Court to imprisonment, that imprisonment shall commence at the expiration of the penal servitude, transportation or imprisonment to which he has previously been sentenced :

Provided that when, under this sub-section, at the expiration of a term of imprisonment to which a person has been sentenced by an Indian Marine Court, another term of imprisonment to which he has been similarly sentenced commences, and the aggregate term of imprisonment to which he would be thus liable would, as reckoned from the commencement of such imprisonment, exceed two years, so much of that term as is in excess of two years shall be deemed to be remitted.

75. (1) A person sentenced by an Indian Marine Court, or by a commanding officer exercising jurisdiction under this Act, to imprisonment shall be detained in the prescribed custody until he is transferred to a prison.

Execution of such sentences.

(2) A person sentenced as aforesaid shall, as soon as may be practicable, be transferred to a prison in British India, and shall be delivered over with a warrant of commitment in the prescribed form signed by the prescribed authority to the officer in charge of that prison.

(3) A person transferred to a prison under sub-section (2) shall thereafter be dealt with in all respects as if he were detained in that prison under a sentence of a Criminal Court :

Provided that—

(a) when he is a person sentenced to imprisonment by his commanding officer, the commanding officer, or the Director of Marine, may at any time by order in writing direct that he be discharged ;



(Chap. V.—Supplemental Criminal Provisions. Chap. VI.—Provisions of Civil Law.)

(b) the Director of Marine or any commanding officer may, by order in writing, direct that any person so transferred shall be delivered over to the prescribed custody for the purpose of being brought before an Indian Marine Court either as a witness or for trial or otherwise, and that he shall again be transferred to the prison.

*Savings.*

76. Except as expressly provided by this Act, nothing in this Act shall affect the jurisdiction or powers of any Court of criminal jurisdiction.

77. Nothing in this Act shall affect any rules, regulations, conditions or customs of the Indian Marine Service now or hereafter in force under which any person may be liable—

(a) to dismissal, loss of seniority, disrating, forfeiture or stoppages ; or

(b) to any restriction not amounting to custody or any deprivation of indulgence or additional duty, imposed in the way of discipline.

*Amendment of Acts.*

78. [ *Amendment of Act X of 1882, section 54 (Arrest of Deserters.)* ]  
*Rep. by the Code of Criminal Procedure, 1898 (Act 7 of 1898).<sup>1</sup>*

79. After section 133 of the <sup>2</sup>Indian Penal Code the following section XLV of 186 shall be inserted, namely :—

“ 138A. The foregoing sections of this Chapter shall apply as if Her Majesty's Indian Marine Service were comprised in the Navy of the Queen.”

CHAPTER VI.

PROVISIONS OF CIVIL LAW.

*Exemption from Process.*

80. (1) A person below the position of gazetted officer shall not, while subject to this Act, be liable to be taken out of the Indian Marine Service by any process, execution or order of any Court of law, or otherwise, or be compelled to appear in person before any Court of law except in respect of the following matters, or one of them ; that is to say :—

(a) on account of a criminal charge or conviction ;

Saving of authority of ordinary Courts. Minor punishments.

Amendment of Chapter VII of the Penal Code (Offences relating to Army and Navy).

Application of foregoing sections to the Indian Marine Service.

Exemption from arrest for debt.

<sup>1</sup> Genl. Acts, Vol. V.

<sup>2</sup> Genl. Acts, Vol. I.

(b) on account of a decree for money, when the amount exceeds three hundred rupees over and above the costs of the suit.

(2) The Judge of any such Court may examine into any complaint made by any such person, or his superior officer, of the arrest of the person contrary to the provisions of this section, and may by order under his hand discharge the person, and award reasonable costs to the complainant, who may recover those costs as he might have recovered costs awarded to him by a decree against the person obtaining the process.

81. The clothes, equipment or arms of a person subject to this Act shall not be seized, nor shall the pay and allowances or any part thereof of any such person below the position of a gazetted officer be attached, in execution of any decree or order enforceable against him by any Court of Civil Judicature.

Property which cannot be attached.

*Property of Deceased Persons and Deserters.*

82. The following rules are enacted respecting the disposal of the property of any person subject to this Act who dies or deserts :—

Disposal of property of deceased persons and deserters.

(1) The commanding officer shall secure all the moveable property which is on the spot and cause an inventory thereof to be made.

(2) In the case of a deceased person, if his representative is on the spot and gives security for the payment of the ship and service debts of the deceased, the commanding officer shall deliver over the property to that representative.

(3) In the case of a deceased person, if the property is not dealt with under clause (2), and in the case of every deserter, the commanding officer shall cause the property to be sold by public auction, and from the proceeds of the sale shall pay the ship and service debts and, in the case of a deceased person, the expenses of his funeral ceremonies.

(4) The surplus, if any, shall in the case of a deceased person be paid to his representative.

(5) In the event of no claim for the surplus of a deceased person's estate being established within twelve months after his death, and immediately after the sale of the effects of a deserter, the amount remaining in the hands of the commanding officer shall be remitted to the Director of Marine.

(6) Property deliverable or money payable to the representative of a deceased person under this section may, if the value or amount thereof does not exceed one thousand rupees and the Director of Marine or the prescribed authority thinks fit, be delivered or paid to any person appearing to him to be

*(Chap. VI.—Provisions of Civil Law.)*

entitled to receive it, or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title ; and such delivery or payment shall be a full discharge to the person ordering or making the same and to the Secretary of State for India in Council from all further liability in respect of the property or money ; but nothing in this section shall affect the rights of any executor or administrator or other representative or of any creditor of a deceased person against a person to whom any such delivery or payment has been made.

(7) A person shall be deemed to have deserted within the meaning of this section who has been convicted of desertion, or who has been absent without leave for a period of thirty days from the Indian Marine Service, and has not subsequently surrendered or been arrested.

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## THE ALLAHABAD UNIVERSITY ACT, 1887.

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THE SCHEDULE.

PART I.—[*Offices to be deemed to have been specified under section 5, sub-section (1), clause (a).*] Rep. Act VIII of 1904, s. 29.

PART II.—PERSONS TO BE DEEMED TO HAVE BEEN APPOINTED, OR TO HAVE BEEN ELECTED AND APPROVED, AS FELLOWS UNDER SECTION 5, SUB-SECTION (1), CLAUSE (b) OR CLAUSE (c).

ACT No. XVIII of 1887.<sup>1</sup>

[23rd September, 1887.]

## An Act to establish a University at Allahabad.

WHEREAS it has been determined to establish a University at Allahabad ;  
It is hereby enacted as follows :—

Title and  
commence-  
ment.

1. (1) This Act may be called the Allahabad University Act, 1887 ; and
- (2) It shall come into force at once.

Establish-  
ment and in-  
corporation of  
University.

2. (1) A University shall be established at Allahabad, and the Governor General for the time being shall be the Patron of the University.
- (2) The University shall consist of a Chancellor, a Vice-Chancellor and such number of Fellows as may be determined in manner hereinafter provided.

(3) The University shall be a body corporate by the name of the University of Allahabad, having perpetual succession and a common seal, with power to acquire and hold property, moveable or immoveable, to transfer the same, to contract, and to do all other things necessary for or incidental to the purposes of its constitution.

(4) The University shall come into existence on such day<sup>2</sup> as the Local Government may, by notification in the official Gazette, appoint in this behalf.

Chancellor.

3. The Lieutenant-Governor of the North-Western Provinces for the time being shall be the Chancellor of the University, and the first Chancellor shall be the Hon'ble Sir Alfred Comyns Lyall, Knight Commander of the Most Honourable Order of the Bath, Knight Commander of the Most Eminent Order of the Indian Empire.

Vice-Chan-  
cellor.

4. (1) The Vice-Chancellor shall be such one of the Fellows as the Chancellor may from time to time appoint in this behalf.

(2) Except as provided in sub-sections (3) and (4), he shall hold office for two years from the date of his appointment, and on the expiration of his term of office may be re-appointed.

(3) If a Vice-Chancellor leaves India, he shall thereupon cease to be Vice-Chancellor unless the Chancellor otherwise directs.

(4) The Hon'ble Sir John Edge, Knight, Queen's Counsel, Chief Justice of the High Court of Judicature for the North-Western Provinces, shall be

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1887, Pt. V, p. 53, and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 43, 46 and 74.

<sup>2</sup> The 15th November, 1887—see North-Western Provinces and Oudh Gazette, 1887, Pt. I, p. 465.

deemed to have been appointed the first Vice-Chancellor, and his term of office shall, subject to the provisions of sub-section (3), expire on the last day of December, 1889.

5. [Fellows.] *Rep. by the Indian Universities Act, 1904 (VIII of 1904), s. 29.*

6. \* \* \* \* \* \*<sup>1</sup> First Fellows.

(2) The persons named in Part II of the schedule shall, except for the purposes of the second clause of the proviso to section 5, sub-section (1), be deemed to be Fellows appointed under clause (b) of sub-section (1) of section 5, or elected and approved under clause (c) of that sub-section.

7. \* \* \* \* \* \*<sup>1</sup> Vacation of office of Fellow.

(2) The Chancellor may, with the consent of not less than two-thirds of the members of the Senate present at a meeting specially convened for the purpose, remove any Fellow \* \* \* \* \*

(3) If any Fellow leaves India without the intention of returning thereto or is absent from India for more than four years, he shall thereupon cease to be a Fellow.

8. Every person who has filled the office of Patron or Chancellor shall be an honorary Fellow of the University, but shall not be a member of the Senate. Honorary Fellows.

9. (1) The Chancellor, Vice-Chancellor and Fellows for the time being shall form the Senate of the University. Constitution and powers of Senate.

(2) The Senate shall have the entire management of, and superintendence over, the affairs, concerns and property of the University, and shall provide for that management and exercise that superintendence in accordance with the rules for the time being in force under this Act.

10. [Chairman at meetings of Senate.] *Rep. by the Indian Universities Act, 1904 (VIII of 1904), s. 29.*

11. [Proceedings at meetings of Senate.] *Rep. by the Indian Universities Act, 1904 (VIII of 1904), s. 29.*

12. [Appointment of Syndicate, Faculties, examiners and officers.] *Rep. by the Indian Universities Act, 1904 (VIII of 1904), s. 29.*

13. [Functions and proceedings of Syndicate.] *Rep. by the Indian Universities Act, 1904 (VIII of 1904), s. 29.*

<sup>1</sup> Sub-section (1) of sections 6 and 7 was repealed by the Indian Universities Act, 1904 (8 of 1904), s. 29, Genl. Acts, Vol. VI.

<sup>2</sup> In sub-section (2) of section 7, the following words were repealed after the word "Fellow" by the Indian Universities Act, 1904 (8 of 1904), s. 29, namely :—

"Appointed under clause (b) of sub-section (1) of section 5, or elected and approved under clause (c) of that sub-section."

14. [Power to confer degrees after examination.] Rep. by the Indian Universities Act, 1904 (VIII of 1904), s. 29.

15. [Power to confer honorary degrees.] Rep. by the Indian Universities Act, 1904 (VIII of 1904), s. 29.

Power to  
levy fees.

16. (1) The Senate may charge such reasonable fees for entrance into the University, and continuance therein, for admission to the examinations of the University, for attendance at any lectures or classes in connection with the University, and for the degrees to be conferred by the University, as may be imposed by the rules for the time being in force under this Act.

(2) Such fees shall be carried to a General Fee Fund for the payment of expenses of the University.

17. [Power to make rules.] Rep. by the Indian Universities Act, 1904 (VIII of 1904), s. 29.

Examiners,  
officers and  
servants of  
the Senate  
to be deemed  
to be public  
servants.

18. (1) Every examiner, officer or servant appointed or remunerated by the Senate shall, for the purposes of the <sup>1</sup> Indian Penal Code, be deemed to be a public servant. XLV of 1860

(2) The word "Government" in the definition of "legal remuneration" in section 161 of that Code shall, for the purposes of sub-section (1), be deemed to include the Senate, and sections 162 and 163 of the Code shall be construed as if the words "or with any member of the Senate of the Allahabad University" were inserted after the words "with any Lieutenant-Governor."

Duty of  
Local  
Government  
to enforce  
Act and  
rules.

19. It shall be the duty of the Local Government to require that the proceedings of the University shall be in conformity with this Act and the rules for the time being in force thereunder, and the Local Government may exercise all powers necessary for giving effect to its requisitions in this behalf, and may, among other things, annul, by notification in the official Gazette, any such proceeding which is not in conformity with this Act and those rules.

Notifications  
in certain  
cases.

20. All appointments made under section 4, all <sup>2</sup> \*\*\* elections approved <sup>2</sup> \*\*\* all degrees conferred <sup>2</sup> \*\*\* and all rules made <sup>2</sup> \*\*\* shall be notified in the local official Gazette.

Annual ac-  
counts and  
audit thereof.

21. (1) The accounts of the income and expenditure of the University shall be submitted once in every year to the Local Government for such examination and audit as that Government may direct.

<sup>1</sup> Genl. Acts, Vol. I.

<sup>2</sup> In section 20 the words and figures "appointments made and," "under section 5, sub-section (i), clauses (b) and (c)," "under sections 14 and 15" and "under section 17" were repealed by the Indian Universities Act, 1904 (8 of 1904), s. 29, Genl. Acts, Vol. VI.

*(The Schedule.)*

(2) For the purposes of the examination and audit the auditor appointed by the Local Government may by letter require the production before him of any books, vouchers and other documents which he deems necessary, and may require any person holding or accountable for any such books, vouchers or documents to appear before him at the examination and audit or adjournment thereof and to answer all questions which may be put to him with respect thereto or to prepare and submit any further statement which the auditor considers necessary in explanation thereof.

(3) Any person who in the absence of reasonable excuse, the burden of proving which shall lie upon him, refuses or neglects to comply with a requisition under sub-section (2), shall be punished for every such refusal or neglect with fine which may extend to one hundred rupees.

(4) When the auditor has completed the examination and audit, he shall report the result thereof to the Local Government, and that Government may thereupon disallow any payment made contrary to law and surcharge it on the person making or authorizing the making of the illegal payment.

(5) If the amount of a payment so surcharged is not paid, as the Local Government directs, within fourteen days after demand being made therefor, the Secretary of State for India in Council may proceed by suit in any Court of competent jurisdiction to recover the amount from the person on whom the surcharge was made.

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## THE SCHEDULE.

*(See section 6.)*

### PART I.

[Offices to be deemed to have been specified under section 5, sub-section (1), clause (a).] *Rep. by the Indian Universities Act, 1904 (VIII of 1904), c. 29.*

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### PART II.

Persons to be deemed to have been appointed, or to have been elected and approved, as Fellows under section 5, sub-section (1), clause (b) or clause (c) :—

1. The Hon'ble James Wallace Quinton, Bachelor of Arts, Bengal Civil Service, Member of the Board of Revenue of the North-Western Provinces,



Companion of the Most Exalted Order of the Star of India, Fellow of the Calcutta University, Additional Member of the Council of the Governor General for making Laws and Regulations, Member of the Council of the Lieutenant-Governor of the North-Western Provinces and Oudh for making Laws and Regulations.

2. The Hon'ble William Tyrrell, Bachelor of Arts, Bengal Civil Service, Judge of the High Court of Judicature for the North-Western Provinces.

3. The Hon'ble Syed Ahmed, Khan Bahadur, Companion of the Most Exalted Order of the Star of India, Fellow of the Calcutta University, Member of the Council of the Lieutenant-Governor of the North-Western Provinces and Oudh for making Laws and Regulations.

4. The Hon'ble Syed Mahmud, Barrister-at-Law, Judge of the High Court of Judicature for the North-Western Provinces.

5. The Hon'ble Pundit Ajudhya Nath, Member of the Council of the Lieutenant-Governor of the North-Western Provinces and Oudh for making Laws and Regulations.

6. Lieutenant-Colonel John Greenlaw Forbes, of the Royal Engineers, Fellow of the Calcutta University, Joint Secretary to Government, North-Western Provinces and Oudh, in the Public Works Department.

7. Surgeon-Major James Cleghorn, Doctor in Medicine, Civil Surgeon, Lucknow.

8. Raja Shiva Prasada, Companion of the Most Exalted Order of the Star of India.

9. Mortimer Sloper Howell, Esq., Bengal Civil Service, District Judge, North-Western Provinces, Companion of the Most Eminent Order of the Indian Empire, Fellow of the Calcutta University.

10. Raja Jai Kishan Das, Bahadur, Deputy Collector, North-Western Provinces, Companion of the Most Exalted Order of the Star of India, Fellow of the Calcutta University.

11. Raja Udai Pratab Singh, Talukdar of Bhinga in the Bahraich District.

12. Brigade-Surgeon Emanuel Bonavia, Doctor in Medicine, Civil Surgeon, Etawah.

13. Mahamahopadhyaya Bapu Deva Shastri, Sanskrit College, Benares, Companion of the Most Eminent Order of the Indian Empire.

14. John C. Nesfield, Esq., Master of Arts, Inspector of Schools, Oudh Division.

15. Kenneth Deighton, Esq., Bachelor of Arts, Inspector of Schools, Rohilkhand Division.

## (The Schedule.)

16. William Charles Benett, Esq., Bengal Civil Service, Secretary to the Government of the North-Western Provinces and Oudh.

17. Michael J. White, Esq., Master of Arts, Principal, Canning College, Lucknow.

18. Alexander Thompson, Esq., Principal, Agra College.

19. Babu Pramoda Das Mittra, Honorary Magistrate, Benares.

20. Charles H. Hill, Esq., Barrister-at-Law, Allahabad.

21. William H. Wright, Esq., Bachelor of Arts, Professor of English Literature, Muir Central College, Allahabad.

22. W. N. Boutflower, Esq., Bachelor of Arts, Professor of Mathematics, Muir Central College, Allahabad.

23. Shams-ul-ulama Maulvi Zaka-ulla, Khan Bahadur, *Emeritus* Professor of Arabic, Muir Central College, Allahabad.

24. Samuel Alexander Hill, Esq., Bachelor in Science, Professor of Physical Science, Muir Central College, Allahabad, and Meteorological Reporter to the Government.

25. The Reverend John Hewlett, Master of Arts, Principal, London Mission College, Benares.

26. Pandit Lakshmi Shankar Misra, Master of Arts, Professor of Physical Science, Benares College.

27. Theodore Beck, Esq., Bachelor of Arts, Principal, Muhammadan Anglo-Oriental College, Aligarh.

28. Pandit Aditya Ram Bhattacharya, Master of Arts, Professor of Sanskrit, Muir Central College, Allahabad.

29. Munshi Newal Kishore, Lucknow.

30. Babu Bireshwar Mittra, Professor of Law, Benares College.

31. Lala Mukand Lal, Rae Bahadur, Honorary Assistant Surgeon to the Viceroy, Lecturer, Medical College, Agra.

32. Babu Ram Saran Das, Master of Arts, Fyzabad.

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ACT No. XX OF 1887.<sup>1</sup>

[21st October, 1887.]

## An Act for the Protection of Wild Birds and Game.

WHEREAS municipal authorities in different parts of British India have from time to time made rules for the protection of birds and other game ;

And whereas it is expedient that Local Governments and cantonment authorities as well as municipal authorities should be empowered to make such rules :

It is hereby enacted as follows :—

Title, extent  
and com-  
mencement.

1. (1) This Act may be called the Wild Birds Protection Act, 1887.
- (2) It extends to the whole of British India ; and
- (3) It shall come into force at once.

Definitions.

2. In this Act—

(1) “municipal authority” means the corporation, commissioner, committee, board, council or person having authority over a municipality under any enactment for the time being in force ;

(2) “cantonment authority” means a cantonment-committee or, in the case of a cantonment for which such a committee has not been constituted the commanding officer of the cantonment ; and

(3) “wild bird” includes a peacock and every bird of game.

Power to  
make rules.

3. (1) The Local Government with respect to any municipality or cantonment within the territories under its administration, or the municipal authority

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1887, Pt. V, p. 52; for Report of the Select Committee, *see* *ibid.*, 1887, Pt. VI, p. 130 and for Proceedings in Council, *see* *ibid.*, Pt. VI, pp. 42, 45 and 101.

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898) ; it had also, previous to being declared in force there by Act 13 of 1893, been extended to Upper Burma, *see* Gazette of India, 1892, Pt. I, p. 94.

It has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874, (14 of 1874), Genl. Acts, Vol. II :—

to British Baluchistan, *see* Gazette of India, 1892, Pt. II, p. 505.

It has been declared in force in the Santhál Parganas, by s. 3 of the Santhál Parganas Settlement Regulation (III of 1872) as amended by the Santhál Parganas Justice and Laws Regulation, 1899 (8 of 1899), Ben. Code, Vol. I.

<sup>2</sup> For rules under this section for—

- (1) Ajmer-Merwara, *see* Aj. R. & O., Vol. I ;
- (2) Bengal, *see* Calcutta Gazette, 1899, Pt. IB, pp. 120 and 129 ;
- (3) Bombay, *see* Bom. R. & O., Vol. I, and Bombay Government Gazette, 1906, Pt. I, p. 1924 ;
- (4) British Baluchistan, *see* Gazette of India, 1901, Pt. II, p. 271 ;
- (5) Burma, *see* Bur. R. M., Vol. II.
- (6) Central Provinces, *see* C. P. R. & O. ;
- (7) Port Blair, *see* Andaman and Nicobar Gazette, 1905, p. 3.
- (8) Punjab, *see* Punjab List of Local R. & O.
- (9) United Provinces of Agra and Oudh, *see* United Provinces List of Local R. & O., Vol. I.

or cantonment-authority of any municipality or cantonment, may from time to time make rules—

- (a) defining the expression “wild bird” for the purposes of this Act in its application to the municipality or cantonment;
- (b) defining for those purposes the breeding season of any kind of wild bird; and
- (c) prohibiting, subject to such exceptions and conditions as may be prescribed by the rules, the possession or sale during its breeding season within the municipality or cantonment of any kind of wild bird recently killed or taken, or the importation into the municipality or cantonment of the plumage of any kind of wild bird during such season.

(2) The authority making a rule under clause (c) of sub-section (1) may direct that a breach of it shall be punishable with fine which may extend, in the case of a first offence, to five rupees for every wild bird in respect of which or of the plumage whereof the breach of the rule has been committed, and, in the case of a subsequent offence, to ten rupees in respect of every such bird or plumage.

(3) A Court convicting any person of a breach of any such rule may order the confiscation of any wild bird or plumage in respect of which the breach was committed.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication and, in the case of rules made by a municipal authority or cantonment-authority, to the further condition of the rules being confirmed by the Local Government before they are published in the official Gazette under clause (5) of section 6 of the<sup>1</sup> General Clauses Act, 1887.

I of 1887.

4. The Local Government, of its own motion or on the application of any municipal authority or cantonment-authority, may, by<sup>2</sup> notification in the official Gazette, declare the provisions of the last foregoing section with respect to wild birds to apply to any animals of game other than birds, and thereupon those provisions shall apply to such animals and their furs in like manner as they apply to wild birds and their plumage.

Power to  
apply Act to  
any animals  
of game.

<sup>1</sup> See now cl. (5) of s. 23 of the General Clauses Act, 1897 (10 of 1897), *infra*.

<sup>2</sup> For such a notification in:—

(1) Ajmer-Merwara, *see* A. J. R. & O., Vol. I.

(2) Baluchistan, *see* Gazette of India, 1901, Pt. II, p. 271.

(3) Bombay, *see* Bom. R. & O., Vol. I.

(4) Burma, *see* Bur. R. M., Vol. II.

(5) Punjab, *see* Punjab List of Local R. & O.

ACT No. II OF 1888.<sup>1</sup>

[10th February, 1888.]

An Act to provide for the levy of a Customs-duty on Petroleum.

WHEREAS it is expedient to provide for the levy of a <sup>2</sup> customs-duty on petroleum; It is hereby enacted as follows :—

1. [Addition to Schedule II, Act XI, 1882.] *Rep. by the Indian Tariff Act, 1894 (VIII of 1894), Sch. I.*

And whereas the provisos to section 37 of the <sup>3</sup> Sea Customs Act, 1878, <sup>VIII of 187</sup> do not apply to goods to which a rate of duty is not already applicable; It is further enacted as follows :—

Commence-  
ment of  
effect of the  
addition to  
the schedule.

2. The rate of duty applicable to petroleum of which the bill-of-entry is <sup>VIII of 187</sup> delivered, within the meaning of section 37 of the <sup>3</sup> Sea Customs Act, 1878, to the Customs-collector under section 86 of that Act, after the passing of this Act, shall be the rate of duty specified in the <sup>4</sup> second schedule to the <sup>4</sup> Indian <sup>XI of 1882.</sup> Tariff Act, 1882, as amended by this Act.

ACT No. III OF 1888.<sup>5</sup>

[17th February, 1888.]

An Act to amend the Law relating to the Regulation of Police.

WHEREAS it is expedient to relax those provisions of Acts for the regulation of police which restrict the employment of police-officers to the presidency, province or place of the police-establishment of which they are members; It is hereby enacted as follows :—

1. (1) This Act may be called the Police Act, 1888.

Title, extent  
and com-  
mencement.

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1888, Pt. V, p. 2; for Report of the Select Committee, *see* *ibid*, Pt. IV, p. 6 and for Debates in Council, *see* *ibid*, Pt. VI, pp. 6, 21 and 35.

<sup>2</sup> For duty on petroleum, *see* now Art. 16, Sch. IV of the Indian Tariff Act, 1894 (8 of 1894), *infra*.

<sup>3</sup> Genl. Acts, Vol. II.

<sup>4</sup> *See* now the Indian Tariff Act, 1894 (8 of 1894), Sch. IV (16), *infra*.

<sup>5</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1888, Pt. V, p. 130; for Report of the Select Committee, *see* *ibid*, 1888, Pt. IV, p. 8 and for Proceedings in Council, *see* *ibid*, 1887, Pt. VI, p. 100, and *ibid*, 1888, pp. 37 and 40.

The Act has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1890 (1 of 1890), Bal. Code.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the Districts of Hazáribágh, Lohardaga (now called the Ranchi District, *see* Calcutta Gazette, 1899, Pt. I, p. 44), Mánbhum and Palamanu, and in Pargana Dhalbhum and the Kolhán in the Singbhum District, *see* Gazette of India, 1895, Pt. I, p. 130.

It had been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code. It had been previously extended there, by notification under s. 5 of Act 14 of 1874, *see* Gazette of India, 1892, Pt. I, p. 94.

(2) It extends to the whole of British India ; and

(3) It shall come into force at once.

2. (1) Notwithstanding anything in <sup>1</sup>Act XXIV of 1859 (*an Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George*), <sup>2</sup>Act V of 1861 (*an Act for the Regulation of Police*) <sup>3</sup>[or the corresponding law for the time being in force in the territories administered by the Governor of Bombay in Council], or any Act relating to the police in any presidency-town, the Governor General in Council may, by notification in the Gazette of India, create a general police-district embracing parts of two or more presidencies, provinces or places, and direct the enrolment under <sup>2</sup>Act V of 1861 of a police-force for service therein.<sup>4</sup>

Constitution of police-forces for special purposes.

X of 1882.

(2) With respect to such a district and the police-force enrolled therefor, the functions of the Local Government under <sup>2</sup>Act V of 1861, the <sup>5</sup> Code of Criminal Procedure, 1882, and any other enactment for the time being in force relating to police shall, subject to any orders which the Governor General in Council may make in this behalf, be discharged by the Governor General in Council, or by such Local Government or other authority as the Governor General in Council may <sup>4</sup> appoint, and the functions of the Inspector-General of Police, Deputy Inspectors-General, Assistant Inspectors-General, District Superintendents of Police and Assistant District Superintendents under <sup>2</sup>Act V of 1861 and <sup>6</sup> any other enactment for the time being in force shall, subject as aforesaid, be discharged by such officer or officers as may be appointed by the authority ordinarily discharging under this sub-section the functions of the Local Government with respect to the district and force.

(3) Subject to any orders which the Governor General in Council may make in this behalf, members of a police-force enrolled for service in a general

<sup>1</sup> Mad. Code.

<sup>2</sup> Genl. Acts, Vol. I.

<sup>3</sup> These words were substituted for the words "the Bombay District Police Act, 1867," by the second schedule to the Repealing and Amending Act, 1891 (12 of 1891). See now the Bombay District Police Act, 1890 (Bom. Act IV of 1890), Bom. Code, Vol. III.

<sup>4</sup> For notifications issued under these powers, see Genl. Stat. R. & O., Vols. II and IV.

For notification appointing the Inspector-General of Police, Punjab, to discharge the functions of the Inspector-General in the General Police District created by notification No. 211, dated 21st March 1902, by the Government of India, see Punjab Government Gazette, 1902, Pt. I, p. 367.

<sup>5</sup> See now the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

<sup>6</sup> For notification conferring on all Police-officers above the rank of Sergeant within those parts of the General Police District created by Government of India Notification No. 211, dated 21st March, 1902, which lie within the Bombay Presidency and the N.-W. F. Province, the powers mentioned in section 14 of the Opium Act, 1878 (1 of 1878), see Punjab Government Gazette, 1902, Pt. I, p. 368. As to powers under the Bombay Abkari Act, 1878, s. 6 (2) and the Bombay Salt Act, 1890, s. 10 (1), within the area lying in the Bombay Presidency, see *ibid*.

police-district created under sub-section (1) shall have within every part of any presidency, province or place of which any part is included in the district the powers, duties, privileges and liabilities which, as police-officers appointed under <sup>1</sup>Act V of 1861, they have within the district.

(4) Any member of such a force whom the authority ordinarily discharging with respect thereto the functions of the Local Government under sub-section (2) has generally or specially empowered to act under this sub-section, may, subject to any orders which the Governor General in Council may make in this behalf, exercise in any part of the local area in which he has the powers of a police-officer under sub-section (3) any of the powers which an officer in charge of a police-station has in that part, and, when so exercising any such power, shall, subject as aforesaid, be deemed to be an officer in charge of a police-station discharging the functions of such an officer within the limits of his station.

(5) Subject to any orders which the Governor General in Council may make in this behalf, a part of a presidency, province or place included in a general police-district under sub-section (1) shall not by reason of being included therein cease for the purposes of any enactment relating to police to be part of the presidency, province or place of which it forms part.

(6) For the purposes of this section, and subject to the provisions thereof, <sup>1</sup>Act V of 1861 shall, notwithstanding anything in section 46 of that Act, be deemed to take effect throughout the whole of British India.

Employment  
of police-  
officers  
beyond the  
presidency,  
province  
or place to  
which they  
belong.

3. Notwithstanding anything in any of the Acts mentioned or referred to in the last foregoing section, but subject to any orders which the Governor General in Council may make in this behalf, a member of the police-establishment of any presidency, province or place may discharge the functions of a police-officer in any part of British India beyond the limits of the presidency, province or place, and shall, while so discharging such functions, be deemed to be a member of the police-establishment of that part and be vested with the powers, functions and privileges, and be subject to the liabilities of a police-officer belonging to that establishment.

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<sup>1</sup> Genl. Acts, Vol. I.

ACT No. IV of 1888.<sup>1</sup>

[2nd March, 1888.]

## An Act to regulate Her Majesty's Indian Reserve Forces.

WHEREAS it is expedient to provide for the government, discipline and regulation of Her Majesty's Indian Reserve Forces ; It is hereby enacted as follows :—

- |  |  |
|--|--|
| <p>1. (1) This Act may be called the Indian Reserve Forces Act, 1888 ; and</p> <p>(2) It shall come into force on such day as Governor General in Council may, by notification in the Gazette of India,<sup>2</sup> appoint in this behalf.</p> <p>2. The Indian Reserve Forces shall consist of the Active Reserve and the Garrison Reserve.</p> <p>3. (1) A person belonging to the Active Reserve shall be liable to serve beyond the limits of British India as well as within those limits.</p> <p>(2) A person belonging to the Garrison Reserve shall not be liable without his consent to serve beyond the limits of British India.</p> <p>4. The Governor General in Council may make<sup>3</sup> rules and orders for the government, discipline and regulation of the Indian Reserve Forces.</p> <p>5. Subject to the provision of section 3 with respect to persons belonging to the Garrison Reserve, and to such rules and orders as may be made under section 4, a person belonging to the Indian Reserve Forces shall, as an officer or soldier, as the case may be, be subject to military law in the same manner and to the same extent as a person belonging to Her Majesty's Indian Forces.</p> <p>6. (1) If a person belonging to the Indian Reserve Forces—</p> <p>(a) when required by or in pursuance of any rule or order under this Act to attend at any place, fails without reasonable excuse to attend in accordance with such requirement, or</p> <p>(b) fails without reasonable excuse to comply with any such rule or order, or</p> | <p>Title and commencement.</p> <p>Division of Reserve Forces into Active and Garrison Reserves.</p> <p>Locality of service of Reserves.</p> <p>Power to make rules for regulation of Reserve Forces.</p> <p>Liability of Reserve Forces to military law.</p> <p>Punishment of certain offences by persons belonging to Reserve Forces.</p> |
|--|--|

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1888, Pt. V, .p. 22 and for Proceedings in Council, *see ibid.*, 1888, pp. 45 and 55.

This Act has been declared in force in British Baluchistan by the Baluchistan Laws Regulation, 1890 (1 of 1890), Bal. Code.

<sup>2</sup> The Act came into force on the 26th May, 1888, *see* Gazette of India of same date, Pt. I, p. 239.

<sup>3</sup> For rules for the grant of native officers' commissions in the existing reserve of Supply and Transport, *see* Genl. Stat. R. and O., Vol. II. Vol. IV.



- (c) fraudulently obtains any pay or other sum contrary to any such rule or order,

he shall be liable—

- (i) on conviction by a Court-martial, to such punishment other than death, transportation or imprisonment for a term exceeding one year as such Court is by the <sup>1</sup> Indian Articles of War empowered to award, or Act V of 1869.
- (ii) on conviction by a Magistrate of the first class, to imprisonment for a term which may extend, in the case of a first offence under this section, to six months, and, in the case of any subsequent offence thereunder, to one year.

(2) Where a person belonging to the Indian Reserve Forces is required by or in pursuance of any rule or order under this Act to attend at any place, a certificate purporting to be signed by an officer appointed by such a rule or order in this behalf, and stating that the person so required to attend failed to do so in accordance with such requirement, shall, without proof of the signature or appointment of such officer, be evidence of the matters stated therein.

(3) Any person charged with an offence under this section may be taken into and kept in either military or civil custody, or partly into and in one description of custody and partly into and in the other, or be transferred from one description of custody to the other.

Effect of Act  
on persons  
already in  
the Reserves.

7. Nothing in this Act or in any rule or order thereunder shall make any person transferred to the Indian Reserve Forces before the commencement of this Act subject, without his consent, to any of the provisions of this Act.

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<sup>1</sup> Genl. Acts, Vol. II.

## THE INVENTIONS AND DESIGNS ACT, 1888.

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ACT No. V of 1888.<sup>1</sup>

[16th March, 1888.]

## An Act to consolidate and amend the law relating to the Protection of Inventions and Designs.

WHEREAS it is expedient to consolidate and amend the law relating to the protection of inventions and designs; It is hereby enacted as follows :—

Title, extent  
and com-  
mencement.

1. (1) This Act may be called the Inventions and Designs Act, 1888.

(2) It shall extend to the whole of <sup>2</sup> British India; and

(3) It shall come into force on the first day of July, 1888.

Repeal.

2. (1) The enactments described in the first schedule are hereby repealed to the extent specified in the third column thereof.

(2) But this repeal of enactments shall not affect any exclusive privilege acquired, or any conditions or restrictions imposed with respect to any such privilege, or any right or liability accrued or incurred, under any of those enactments before the commencement of this Act, or any relief in respect of any such privilege, right or liability.

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

Division of  
Act into  
Parts.

3. The remainder of this Act is divided into Parts, as follows :—

## PART I.—INVENTIONS.

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## PART I.

## INVENTIONS.

Definitions.

4. In this Part, unless there is something repugnant in the subject or context,—

(1) “ invention ” includes an improvement :

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1888, Pt. I, p. 15; for Report of the Select Committee, see *ibid.*, 1888, Pt. V, p. 3 and for Proceedings in Council, see *ibid.*, 1887, Pt. VI, pp. 1 and 2, and *ibid.*, 1888, Pt. VI, pp. 44 and 63.

<sup>2</sup> The Act has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1890 (1 of 1890), Bal. Code.

It has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

It had previously been extended there by notification under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), Genl. Acts, Vol. II, see Burma Gazette, 1888, Pt. I, p. 362, and Gazette of India, 1888, Pt. I, p. 371.

*(Part I.—Inventions)*

(2) “inventor” does not include the importer into British India of a new invention unless he is the actual inventor :

(3) “applicant” means a person who has applied under this Part for leave to file a specification of an invention, whether he has filed the specification or not :

(4) “assign” includes a grantee of the exclusive privilege of making, selling or using an invention, or of authorizing others so to do, during the term for which the privilege is to continue or may be extended, or for any shorter term :

(5) “inventor,” “actual inventor” and “applicant” include the executors, administrators or assigns of an inventor, actual inventor and applicant, as the case may be :

(6) “manufacture” includes any art, process or manner of producing, preparing or making an article, and also any article prepared or produced by manufacture :

(7) “write” includes print, lithograph, photograph, engrave, and every other mode in which words or figures can be expressed on paper or on any substance :

(8) “secretary” means a Secretary to the Government of India appointed by the Governor General in Council to discharge the functions of the Secretary under this Act, and includes any Under-Secretary, Assistant Secretary or other officer subordinate to the Government of India to the extent to which such officer may be authorized by general or special order of the Governor General in Council to discharge any of those<sup>1</sup> functions :

(9) “district Court” has the meaning assigned to that expression by the<sup>2</sup> Code of Civil Procedure : and

(10) “high Court” has the meaning assigned to that expression by the<sup>3</sup> Code of Criminal Procedure, 1882, in reference to proceedings against European British subjects.<sup>3</sup>

**X of 1882.**

5. (1) The inventor of a new manufacture, whether he is a British subject or not, may apply to the Governor General in Council for leave to file a specification thereof.

Application  
for leave to  
file specifica-  
tion.

(2) The application must be in writing signed by the applicant and in the form or to the effect of the second schedule if the inventor has not

<sup>1</sup> As to appointment of Secretary for purposes of the Act, see Genl. Stat. R. & O., Vol. II.

<sup>2</sup> See now Acts 5 of 1908 and 5 of 1898 respectively, Genl. Acts, Vols. V and VI.

<sup>3</sup> In the N.-W. Frontier Province, the Chief Court of the Punjab is the High Court in respect of proceedings under this Act, see s. 6 (1) (c) of the N.-W. Frontier Province Law and Justice Regulation, 1901 (7 of 1901), Punj. & N.-W. Code.

*(Part I.—Inventions.)*

obtained a patent in the United Kingdom, and in the form or to the effect of the third schedule if he has obtained a patent in the United Kingdom.

(3) It must state the name, occupation and address of the applicant, and, where a patent has been obtained in the United Kingdom, the date of the patent and the date of the actual sealing thereof, and must describe with reasonable precision and detail the nature of the invention, and of the particular novelty whereof it consists, and be supplemented by such further particulars relating to the invention and by such drawings or photographs illustrative thereof, as the Governor General in Council may see fit to require from the applicant.

(4) If in any case it appears to the Governor General in Council that an application ought to be further supplemented by a model of anything alleged to constitute an invention, he may require the applicant to furnish such a model neatly and substantially made of durable material and of dimensions not exceeding those, if any, specified in the requisition therefor.

Order to file  
specification.

6. (1) Upon an application under the last foregoing section the Governor General in Council may, after such inquiry as he thinks fit, make an order authorizing the applicant to file a specification of the invention.

(2) Before making an order under sub-section (1), the Governor General in Council may direct that the application be referred for inquiry and report to any person whom he thinks fit.

(3) When such enquiry and report are made by a person who is not in the service of the Government, there shall be payable to that person by the applicant such fee as the Governor General in Council, after considering the report, may determine.

(4) When an application is to be referred to such a person, the applicant shall deposit, in such place and within such time as the Governor General in Council may by rule or otherwise prescribe, such sum as will, in the opinion of the Secretary, be sufficient to defray any fee which is likely to be determined under sub-section (3).

(5) If the sum is not deposited in the place and within the time prescribed, the application may be rejected.

(6) If the fee as determined by the Governor General in Council exceeds the sum so deposited, an order shall not be made under sub-section (1) until the applicant has paid the balance of the fee.

(7) If the sum deposited exceeds the fee so determined, the excess shall be refunded to the applicant.

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7. (1) If two or more inventors apply on the same day for leave to file specifications of inventions which appear to the Governor General in Council to be identical or so similar as to be practically identical, the Governor General in Council may, in his discretion, authorize both or all the applicants, subject to the other provisions of this Part, to file specifications of their respective inventions.

Applications in respect of contemporaneous inventions.

(2) If they apply on different days for leave to file specifications of such inventions as aforesaid, the applicant who applied on the first of the different days shall be deemed to have a preferential claim to an order authorizing the filing of his specification.

8. (1) If within six months from the date of an order under section 6, sub-section (1), or within such further time, not exceeding three months, as the Governor General in Council, in his discretion, may, on cause shown to his satisfaction and on payment of the fee prescribed in that behalf in the fourth schedule, see fit to allow, the applicant causes a specification of his invention to be filed in manner by this Part required, and the fee prescribed in the fourth schedule in respect of the filing of the specification to be paid, the applicant shall, subject to the other provisions of this Part, be entitled to the exclusive privilege of making, selling and using the invention in British India, and of authorizing others so to do, for a term of fourteen years from the date of the filing of the specification.

Acquisition and continuance of exclusive privilege.

(2) But an exclusive privilege in respect of an invention of a new manufacture shall notwithstanding anything in sub-section (1), cease if the inventor fails to pay, within the time limited in that behalf by the fourth schedule, any fee prescribed in that schedule in respect of the continuance of the privilege.

(3) If, nevertheless, in any case, by accident, mistake or inadvertence, an inventor fails to pay any such fee within the time so limited, he may apply to the Governor General in Council for an enlargement of the time for making the payment.

(4) Thereupon the Governor General in Council may enlarge the time accordingly, on payment of the fee prescribed in that behalf in the fourth schedule and subject to the following conditions, namely :—

- (a) the time for making a payment shall not in any case be enlarged for more than three months ; and
- (b) if any suit is instituted in respect of an infringement of the exclusive privilege committed after a failure to make a payment within the time limited for the making thereof and before the enlargement of that time, the Court disposing of the suit may, if it thinks fit,



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refuse to award or give any damages in respect of the infringement.

Form and  
contents of  
specification.

9. (1) A specification filed under this Part must be in writing signed by the applicant and must set forth the precise invention in respect of which the applicant claims to become entitled to an exclusive privilege.

(2) If the specification is of an invention which is an improvement only, it must by explicit language distinguish between what is old and what is claimed to be new.

(3) Every specification must explain the principle of the invention set forth therein and the best mode in which the applicant has contemplated applying that principle, and must describe the manner of making and using the invention in such full, clear, concise and exact terms as to enable any person skilled in the art or science to which the invention appertains, or with which it is most closely connected, to make or use the same.

Mode of filing  
application  
and specifica-  
tion.

10. Every application for leave to file a specification, and every specification filed under this Part, must be left with, or sent by post to, the Secretary and the date of the delivery or receipt thereof shall be endorsed thereon and recorded in his office.

Delivery and  
distribution  
of copies of  
specification.

11. (1) At the time of delivering or sending the specification for the purpose of its being filed, the applicant shall cause to be delivered or sent, therewith to the Secretary as many <sup>1</sup> copies thereof, not being fewer than four, as may be required by the rules for the time being in force under this Part.

(2) One of these copies shall be retained by the Secretary, and one shall be sent to the Governor of Fort St. George in Council, one to the Governor of Bombay in Council, one to the Chief Commissioner <sup>2</sup> of Burma, and the others, if any, to such authorities as the Governor General in Council may appoint in this behalf.

(3) The copies of the specification which are sent under sub-section (2) to the authorities mentioned or referred to in that sub-section shall be open to the inspection of any person at all reasonable times at places <sup>3</sup> to be appointed by those authorities.

Register of  
inventions.

12. (1) A book, to be called the register of inventions, shall be kept in the office of the Secretary wherein shall be entered and recorded every application for leave to file a specification, every order made on any such application,

<sup>1</sup> As to number of spare copies of specifications to be sent by applicants, see Genl. Stat. R. & O., Vol. II.

<sup>2</sup> Read now "Lieutenant-Governor," see Proclamation, dated 9th April, 1897, Stat. R. & O., Vol. I, p. 13.

<sup>3</sup> For example of a notification appointing a place for inspecting copies of specifications of inventions and designs, see Bombay R. & O., Vol. I.

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every specification filed in pursuance thereof, and every subsequent proceeding relating to the invention described therein.

(2) Applications for leave to file a specification shall be numbered consecutively in the order in which they are delivered or received, and be dated as of the day of their delivery or receipt, and shall be entered in the register of inventions in the order of their respective numbers.

(3) A reference shall be made in that register, in the margin of the entry of each application, to every order on or in respect of the application to the specification, if any, filed in pursuance thereof, and to every subsequent proceeding relating to the invention which forms the subject of the application.

13. (1) Another book, to be called the address-book, shall be kept in the office of the Secretary wherein any person filing a specification under this Part, or any person in whom an exclusive privilege acquired under this Part, or any share or interest therein, may become vested, may from time to time cause to be stated some place in British India where notice of any rule or proceeding relating to the exclusive privilege may be served on him. Address-bok.

(2) A reference to each entry in the address-book shall be made in the register of inventions in the margin of the entry in that register of the application for leave to file the specification.

14. (1) Every entry in the register of inventions or address-book, and every document entered and recorded in the register, shall, for the purposes of the law of evidence for the time being in force,<sup>1</sup> be deemed to be a public document and shall be open to the inspection of any person at all reasonable times at the office of the Secretary. Provisions with respect to the register and book.

(2) The books kept under section 11 and section 35 of <sup>2</sup>Act No. XV of 1859 (*an Act for granting exclusive Privileges to Inventors*) shall be deemed to be parts of the register of inventions and address-book respectively.

15. (1) The inventor of a new manufacture may, at any time not more than one year and not less than six months before the time limited for the expiration of an exclusive privilege acquired under section 8, apply to the Governor General in Council for an extension of the privilege for a further term. Extension of exclusive privilege.

(2) When an application is made under sub-section (1), the Governor General in Council may, if he thinks fit, refer it to a High Court for report.

<sup>1</sup> See the Indian Evidence Act, 1872 (1 of 1872), Genl. Acts, Vol. II.

<sup>2</sup> Act 15 of 1859 was repealed by this Act.

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(3) The Court to which the application is referred shall, in making its report, have regard to the nature and merits of the invention in relation to the public, to the profits made by the inventor as such, and to all the circumstances of the case.

(4) The procedure on the reference shall be such as the Court thinks fit, and may include the issue of citations calling upon persons claiming to have any interest in the reference to appear before the Court on the day on which the reference is to be considered, or on any day to which the consideration thereof may be adjourned, and make with respect thereto any representation which they may see fit in relation to any of the matters to which the Court is required by the last foregoing sub-section to have regard in making its report.

(5) If the Governor General in Council is of opinion, or, where a reference has been made under sub-section (2), if the Court reports, that the inventor has been inadequately remunerated by his exclusive privilege, the Governor General in Council may, on payment of the fee prescribed in that behalf in the fourth schedule, make an order extending the term of the privilege for a further term not exceeding seven or, in exceptional cases, fourteen years from the expiration of the first term of fourteen years.

(6) But an exclusive privilege of which the term has been extended under the last foregoing sub-section shall, notwithstanding anything in that sub-section, cease if the inventor fails to pay before the expiration of each year of such extended term the fee prescribed in the schedule aforesaid in respect of the continuance of the privilege.

Imposition of  
conditions  
with respect  
to exclusive  
privilege.

16. An order under section 6, sub-section (1), authorizing the filing of a specification, or under section 15, sub-section (5), extending the term of an exclusive privilege, may be made subject to such conditions as the Governor General in Council thinks expedient.

Exclusive  
privilege to  
bind the  
Government.

17. (1) Subject to any conditions imposed under the last foregoing section—

(a) with respect to the filing, by a person employed in the service of Her Majesty in India, of the specification of a manufacture invented by him in the course of his employment, or

(b) with respect to the extension, in favour of any person, of the term of an exclusive privilege,

an exclusive privilege acquired under this Part shall have to all intents the like effect as against Her Majesty as it has against a subject.

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(2) But the officers or authorities administering any department of the service of Her Majesty may, by themselves, their agents, contractors or others, at any time after the delivery or receipt of the application for leave to file the specification of an invention, use the invention for the services of the Government on terms to be before or after the use thereof agreed on, with the approval of the Governor General in Council, between those officers or authorities and the inventor, or, in default of such agreement, on such terms as may be settled by the Governor General in Council.

18. (1) If, after the filing of the specification, the applicant has reason to believe that through mistake or inadvertence he has erroneously made any mis-statement in his application or specification or included therein something which at the date of the delivery or receipt of his application was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, he may apply to the Governor-General in Council for leave to file a memorandum pointing out the mis-statement or disclaiming any part of the alleged invention or for leave to file an amended specification, as the case may be.

Application for leave to file memorandum or amended specification.

(2) The application must be in writing signed by the applicant, and must state how the error, defect or insufficiency occurred and that it was not fraudulently intended.

(3) Upon the application the Governor General in Council may make an order allowing the memorandum or amended specification to be filed.

(4) The provisions of section 6 with respect to applications, and of sections 9 and 11 with respect to specifications and copies thereof, shall apply, so far as they can be made applicable, to applications and to amended specifications, respectively, made and filed under this section.

19. An amended specification filed under the last foregoing section shall, except as to any suit or proceeding relating to the exclusive privilege which may be pending at the time of the filing of the amended specification, have the same effect as if it had been the specification first filed :

Effect of amended specification.

Provided that nothing in an amended specification shall be construed to extend or enlarge an exclusive privilege before acquired.

20. A person shall not be entitled to an exclusive privilege under this Part—

(a) if the invention is of no utility, or

(b) if the invention, at the date of the delivery or receipt of the application for leave to file the specification thereof, was not a new invention within the meaning of this Part, or

Bar to exclusive privilege in certain cases.

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- (c) if the applicant is not the inventor thereof, or
- (d) if the original or any amended specification does not fulfil the requirements of this Part, or
- (e) if the original or any subsequent application relating to the invention or the original or any amended specification contains a wilful or fraudulent mis-statement, or
- (f) if the application for leave to file the specification of the invention was made under this Part after the expiration of one year from the date of the acquisition of an exclusive privilege in respect of the invention in any place beyond the limits of British India and the United Kingdom.

Novelty of invention dependent on public use or knowledge thereof before application to file specification.

21. An invention shall be deemed a new invention within the meaning of this Part if it has not before the date of the delivery or receipt of the application for leave to file the specification thereof been publicly used in any part of British India or of the United Kingdom, or been made publicly known in any part of British India or of the United Kingdom by means of a written publication.

Effect of public use or knowledge of invention in fraud of inventor.

22. The public use or knowledge of an invention before the date of the delivery or receipt of the application for leave to file a specification thereof shall not be deemed a public use or knowledge within the meaning of this Part if the knowledge has been obtained surreptitiously or in fraud of the inventor or has been communicated to the public in fraud of the inventor or in breach of confidence :

Provided that the inventor has not acquiesced in the public use of his invention, and that, within six months after the commencement of that use, he applies for leave to file a specification.

Effect of temporary use of invention in public by inventor or by his leave.

23. Use of an invention in public by the inventor thereof, or by his servant or agent, or by any other person by his license in writing, for period not exceeding one year immediately preceding the date of the delivery or receipt of his application for leave to file a specification thereof, or knowledge of the invention resulting from such use thereof in public, shall not be deemed a public use or knowledge within the meaning of this Part.

Effect of public use or knowledge of patented invention between application for patent and application to file specification.

24. If an inventor who has obtained a patent for his invention in the United Kingdom causes an application for leave to file a specification of the invention under this Part to be delivered or received by the Secretary within twelve months from the date of the actual sealing of the patent, the invention shall be deemed a new invention within the meaning of this Part if it was not publicly used or known in any part of British India at or before the date of the application for the patent, notwithstanding that it may have been publicly

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used or known in some part of British India or of the United Kingdom before the date of the delivery or receipt of the application under this Part for leave to file the specification.

25. If an inventor applies for leave to file a specification under this Part while his application for a patent is pending in the United Kingdom, and the interval between the date of his application for the patent and the date of the delivery or receipt of his application under this Part does not exceed twelve months, the invention shall not be deemed to have been publicly used, or made publicly known, within the meaning of this Part, by reason only of the invention having been used, or a description thereof having been published, in any part of British India or of the United Kingdom during the interval.

Effect of like public use or knowledge of unpatented invention.

26. If an inventor, being the exhibitor of his invention at an industrial or international exhibition, certified as such by the Governor General in Council, causes an application for leave to file a specification of the invention to be delivered to or received by the Secretary within six months from the date of the admission of the invention into that exhibition, the invention shall not be deemed to have been publicly used, or made publicly known, within the meaning of this Part, by reason only of the invention having at any time after admission into the exhibition been publicly used or made publicly known.

Effect of public use or knowledge of invention after admission to an exhibition.

27. (1) An exclusive privilege acquired under this Part shall cease if the Governor General in Council declares the privilege, or the mode in which it is exercised, to be mischievous to the State, or generally prejudicial to the public.

Cessation of exclusive privilege by order of the Government.

(2) It shall also cease if a breach of any condition on which the applicant was authorized to file a specification, or on which the term of the exclusive privilege was extended, is on an application under this Part to a High Court proved to the satisfaction of that Court, and if the Governor General in Council thereupon declares the privilege to have ceased.

28. (1) An exclusive privilege acquired under this Part in respect of an invention for which a patent has been obtained in the United Kingdom shall cease on the revocation or expiration of the patent.

Cessation of exclusive privilege on revocation or expiration of patent.

(2) Such a privilege in respect of an invention for which a patent has not been obtained in the United Kingdom shall cease on the revocation or expiration of any patent or exclusive privilege which has been obtained or acquired for or in respect of the invention in any other country.

29. (1) An inventor may institute a suit in the District Court against any person who, during the continuance of an exclusive privilege acquired

Suit for infringement

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of exclusive  
privilege.

by him under this Part in respect of an invention, makes, sells or uses the invention without his license, or counterfeits or imitates it.

(2) The suit shall not be defended upon the ground of any defect or insufficiency of the specification of the invention, or upon the ground that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a wilful or fraudulent misstatement, or upon the ground that the invention is of no utility :

(3) Nor shall it be defended upon the ground that the plaintiff was not the inventor, unless the defendant shows that he himself is the actual inventor or has obtained from the actual inventor a right to make, sell or use the invention, or to counterfeit or imitate it, as the case may be :

(4) Nor shall it be defended upon the ground that the invention was not new, unless the defendant, or some person through whom he claims, has, before the date of the delivery or receipt of the application for leave to file the specification, publicly or actually used in some parts of British India or of the United Kingdom the invention or that part of it with respect to which the exclusive privilege is alleged to have been infringed.

Application  
to declare  
exclusive  
privilege in  
respect of an  
invention not  
to have been  
acquired.

30. Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive privilege in respect of an invention to be specified in the rule has not been acquired under this Part by reason of all or any of the objections following (to be specified in the rule), that is to say :—

- (a) that the invention is of no utility, or
- (b) that the invention was not, at the date of the delivery or receipt of the application for leave to file the specification, a new invention within the meaning of this Part, or
- (c) that the applicant was not the inventor thereof, or
- (d) that the original or any amended specification does not fulfil the requirements of this Part, or
- (e) that the applicant has knowingly or fraudulently included in the application for leave to file the specification or in the original or any amended specification, as part of his invention, something which was not new or whereof he was not the inventor, or
- (f) that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a wilful or fraudulent misstatement, or
- (g) that some part of the invention, or the manner in which that part is to be made and used, as described in the original or

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any amended specification, is not thereby sufficiently described, and that this insufficiency was fraudulent and is injurious to the public.

31. Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive privilege in respect of any part of an invention to be specified in the rule has not been acquired under this Part, by reason of all or any of the objections following (to be specified in the rule), that is to say :—

Like application as to part of an invention.

- (a) that that part of the invention is wholly distinct from the other parts thereof and is of no utility, or
- (b) that that part of the invention was not, at the date of the delivery of receipt of the application for leave to file the specification, a new invention within the meaning of this Part, or
- (c) that the applicant was not the inventor of that part of the invention, or
- (d) that that part of the invention, or the manner in which it is to be made and used, is not sufficiently described in the originals or any amended specification, and that this insufficiency is injurious to the public.

32. The High Court may, irrespective of any provisions of the <sup>1</sup> Code of Civil Procedure in this behalf, require a person applying for a rule under either of the two last foregoing sections to give security for the payment of all costs incurred or likely to be incurred by any person appearing to show cause against the rule.

Security for costs of application under either of the two last foregoing sections.

33. (1) Any person authorized by the Governor General in Council in this behalf may apply to a High Court for a rule to show cause why the question of the breach of any condition on which leave to file a specification has been granted, or any other question of fact on which the cessation of an exclusive privilege under section 27 may, in the judgment of the Governor General in Council, depend, should not be tried in the form of an issue directed by the Court.

Application on breach of condition.

(2) If the rule is made absolute, the Court, unless the breach or other matter of fact is admitted, may direct the issue to be tried and certify the result of the trial to the Governor General in Council.

34. (1) Notice of any rule obtained or proceedings taken under section 30, section 31 or section 33 shall be served on all persons appearing from the address-book to be proprietors of the exclusive privilege, or to have

Notice of proceedings to persons interest

<sup>1</sup>See Act 5 of 1908, Genl. Acts, Vol. VI.



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shares or interests therein, and it shall not be necessary to serve the notice on any other person.

(2) The notice shall be deemed to be sufficiently served if a copy thereof is left at the place for the time being stated in the address-book, by delivering the copy to any person resident at or in charge of the place or, if there is no person resident at or in charge of the place, or if the place is not within the local limits of the jurisdiction of the Court, by causing the notice to be sent to the place by post by a registered letter directed to the person to whom the notice is addressed.

Framing  
issue for trial  
before other  
Court.

35. (1) The High Court may, if it thinks fit, direct an issue for the trial, before itself or any other High Court, or any District Court, of any question of fact arising upon an application under section 30, section 31 or section 33, and the issue shall be tried accordingly.

(2) If the issue is directed to another Court, the finding shall be certified by that Court to the Court directing the issue.

(3) If the issue is directed to a District Court, the finding of that Court shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the Judge of the Court, shall be transmitted, together with any remarks which he may think fit to make thereon, to the High Court, and the High Court may thereupon act upon the finding of the District Court, or dispose of the application upon the evidence recorded, or direct a new trial, as the justice of the case may require.

Order on  
application.

36. (1) If it appears to the High Court at the hearing of an application under section 30 or section 31 that by reason of any of the objections specified in the rule, the exclusive privilege in the invention or in any part thereof has not been acquired, the Court shall make an order accordingly, and thereupon the applicant shall, so long as the order continues in force, cease to be entitled to the exclusive privilege.

(2) If it appears to the High Court, at the hearing of any such application as last aforesaid, that the applicant has, in the description of his invention in the application for leave to file a specification thereof or in the original or any amended specification, erroneously included something, which at the date of the delivery or receipt of the application for leave to file the specification was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect or insufficiency was not fraudulently intended, the Court may adjudge the exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by the error, defect, or insufficiency : or

(3) If it appears to the High Court that the error, defect or insufficiency can be amended without injury to the public, the Court may adjudge the exclusive privilege in respect of the whole of the invention to be valid, and may, upon such terms as it thinks reasonable, order the specification to be amended in any particular in which it is erroneous, defective or insufficient; and thereupon the applicant shall, within a time to be limited by the Court for the purpose, file in the office of the Secretary a specification amended according to the order.

(4) The provisions of section 18 with respect to the distribution and disposal of copies of amended specifications, and of section 19 with respect to the effect of such specifications, shall apply, so far as they can be made applicable, to an amended specification filed under this section.

(5) An exclusive privilege in respect of an invention shall not be defeated upon the ground that the application for leave to file the specification of the invention contains a mis-statement, unless the mis-statement was wilful or fraudulent.

37. (1) In a suit for the infringement of an exclusive privilege acquired under this Part the plaintiff shall deliver with his plaint particulars of the breaches complained of in the suit, and the defendant shall deliver a written statement of the particulars of the grounds, if any, upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in respect of the invention. Delivery of particulars.

(2) In like manner, upon an application to a High Court under section 30, section 31 or section 33, the person making the application shall deliver particulars of the objections or grounds on which he means to rely.

(3) At the hearing of any such suit or application, or at the trial of any issue arising out of any such application, evidence shall not be allowed to be given in proof of any breach of the exclusive privilege, or of any ground impeaching the validity of that privilege, or of any objection or ground affecting such a privilege, unless such breach or other matter as aforesaid has been stated in the particulars delivered under this section.

(4) If it is alleged that the invention was publicly used or known before the date of the delivery or receipt of the application for leave to file the specification thereof, the places where and the manner in which the invention was so publicly used or known shall be stated in the particulars.

(5) Notwithstanding anything in the foregoing portion of this section, the Court in which the suit or application is pending, or an issue arising out of the application is being tried, may allow the plaintiff or defendant

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respectively to amend the particulars delivered under this section upon such terms as it thinks fit.

Title of  
actual in-  
ventor to  
exclusive  
privilege in  
case of fraud.

38. If, in a suit instituted in the District Court at any time within fourteen years from the date of the filing of a specification of an invention under this Part, the actual inventor proves to the satisfaction of the Court that the applicant was not the actual inventor, and that at the time of the application for leave to file the specification the applicant knew or had reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the actual inventor, or by means of a communication made in confidence by the actual inventor to him or to any person through whom he derived the knowledge, the Court may make a decree declaring an exclusive privilege in respect of the invention to be vested, subject to the other provisions of this Part, in the actual inventor for a term of fourteen years from the date on which the specification was filed, and requiring the applicant to account for and pay over to the actual inventor the profits derived by him from the invention or so much of those profits as the Court, having regard to the degree of diligence exerted by the actual inventor in proceeding under this section and to all the other circumstances of the case, may see fit to require the applicant to pay.

Transmission  
of copies of  
decrees and  
orders to  
Secretary.

39. A Court making a decree in a suit under section 29 or section 38, or an order on an application under section 30, section 31 or section 33, shall send a copy of the decree or order, as the case may be, to the Secretary, who shall cause an entry thereof and reference thereto to be made in the register of inventions and against any entry in the address-book affected thereby.

Registration  
of cessation  
of exclusive  
privilege.

40. In the following cases, namely :—

- (a) when an exclusive privilege acquired under this Part has ceased under section 8 or section 15 by reason of a fee in respect of the continuance of the privilege not having been paid within the time limited by the fourth schedule for the payment thereof, and the period, if any, within which an order might have been made for enlarging the time for the making of the payment has expired ;
- (b) when an exclusive privilege acquired under this Part has been declared by the Governor General in Council under section 27 to have ceased ;
- (c) when an exclusive privilege acquired under this Part has ceased under section 28 by reason of the revocation or expiration of a patent or exclusive privilege ;

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- (d) when the whole or any part of an exclusive privilege acquired under this Part has ceased under section 36 in consequence of an order under that section ;
- (e) when an exclusive privilege has been declared by a decree to have vested in an actual inventor under section 38 ;
- (f) when an exclusive privilege acquired under this Part has ceased by reason of the expiration of the term for which it was acquired ;

the Secretary shall cause an entry with respect to the cessation or vesting of the exclusive privilege to be made in the register of inventions, and a reference to that entry to be made in the margin of the entry in that register of the application for leave to file the specification of the invention.

41. (1) If any person is aggrieved by an entry in the register of inventions or address-book, or by the omission of an entry therefrom, and a proceeding is not provided in the foregoing portion of this Part whereby the register or book may be rectified, he may apply to a High Court for an order for the rectification of the register or book, and the Court may make such order on the application as it thinks fit.

Rectification of register of inventions or address-book.

(2) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause an entry thereof and reference thereto to be made in the register of inventions and against any entry in the address-book affected thereby.

(3) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

42. A High Court to which an application has been made under section 30, section 31, section 33 or section 41 may stay proceedings on, or dismiss, the application if in its opinion the application would be disposed of more justly or conveniently by another High Court.

Power to High Court to stay proceedings on or dismiss certain applications.

43. If on the petition of any person interested it is proved to the Governor General in Council that, by reason of an inventor who has acquired an exclusive privilege under this Part failing to grant licenses on reasonable terms,—

Power for Governor General in Council to require grant of licenses.

- (a) the exclusive privilege is not being worked in British India, or
- (b) the reasonable requirements of the public with respect to the invention cannot be supplied, or
- (c) any person is prevented from working or using to the best advantage an invention of which he is possessed,

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the Governor General in Council may order the inventor to grant, or may himself on behalf of the inventor grant, licenses on such terms as to the amount of royalties, security for payment, or otherwise, as the Governor General in Council, having regard to the nature of the invention and the circumstances of the case, may deem just.

Assignment  
for particular  
places.

44. Any person for the time being entitled to an exclusive privilege under this Part, or to any share or interest in such a privilege, in any local area, may, subject to the conditions of his title thereto, assign the privilege or such share or interest, as the case may be, for any place in or part of that local area.

Subscription  
of specifica-  
tions and  
applications.

45. If an applicant is absent from British India, an application for leave to file a specification, or a specification, or an application for leave to file a memorandum or amended specification, may, instead of being signed by the applicant under section 5, section 9 or section 18, as the case may be, be signed on behalf of the applicant by an agent in British India authorized by him in writing in that behalf.

Verification  
of applica-  
tions.

46. (1) An application under this Part for leave to file a specification, memorandum or amended specification must be verified by the person making the application.

(2) If that person is absent from British India, the application may be verified by the agent who signs the application on his behalf.

(3) The verification must be signed by the person making it, and must be to the effect that the facts stated in the application are true to his knowledge, except as to matters stated on information and belief, and that as to those matters he believes them to be true.

Agents.

47. Subject to the provisions of the two last foregoing sections and of any other enactment for the time being in force, any act which is required or authorized by this Part to be done by any person may be done on his behalf by an agent in British India having authority in writing from that person so to do the act.

Fees.

48. (1) There shall be paid in respect of the several proceedings specified in the fourth schedule the fees in that schedule prescribed.

(2) The Governor General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor General in Council directs.<sup>1</sup>

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<sup>1</sup> For notification as to manner of collecting fees payable under the Act, see Genl. Stat. R. & O., Vol. II.

## (Part I.—Inventions.)

## (Part II.—Designs.)

(4) A proceeding in respect of which a fee is payable under the fourth schedule shall be of no effect unless the fee has been paid.

49. (1) The Governor General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part<sup>1</sup>, and may alter or amend<sup>2</sup> either of the forms in the second and third schedules.

Rules and forms.

(2) Rules under this section may provide, among other matters, for the printing of specifications, memoranda and amended specifications, and for the distribution or sale of printed copies thereof.

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## PART II.

### DESIGNS.

50. In this Part, unless there is something repugnant in the subject Definitions. or context,—

(1) “ design ” means some peculiar shape, configuration or form given to an article, or arrangement of lines or the like used on or with an article but not the article itself :

(2) “ copyright ” means the exclusive right to apply a design to an article :

(3) the author of any new and original design shall be considered the “ proprietor ” thereof, unless he executed the work on behalf of another person for a good or valuable consideration, in which case that person shall be considered the “ proprietor,” and every person acquiring for a good or valuable consideration a new and original design, or the right to apply the same to an article, either exclusively of any other person or otherwise, and also every person on whom the property in the design or the right to the application thereof shall devolve, shall be considered the “ proprietor ” of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise : and

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<sup>1</sup> For rules as to the manner of dealing with applications under the Act, see Genl. Stat. R. & O., Vol. II.

For rules as to the preparation of applications and specifications filed under ss. 5, 8 and 51, and of drawings attached to such applications or specifications, see *ibid.*

For rules directing applications under the Act to be in duplicate, see *ibid.*

As to the number of copies of specifications, drawings, photographs, or tracings to be sent to the Secretary under this Act, see Gazette of India, 1888, Pt. I, p. 293, see also note to s. 11, *supra*.

<sup>2</sup> For notification amending the form of application in the second schedule to the Act, see Genl. Stat. R. & O., Vol. II.

## (Part II.—Designs.)

(4) <sup>1</sup> “ Secretary ”, “ District Court ” and “ High Court ” have the same meanings as in Part I.

Application  
for order for  
registration  
of design.

51. (1) Any person, whether a British subject or not, claiming to be the proprietor of any new and original design not previously published in British India, may apply to the Governor General in Council for an order for the registration of the design.

(2) The application must be in writing in the form or to the effect of the fifth schedule, and must contain a statement of the nature of the design and be accompanied by as many copies of drawings, photographs or tracings thereof, not being fewer than four, as may be required by the rules for the time being in force under this Part.

(3) It must be left with, or sent by post to, the Secretary, and the date of the delivery or receipt thereof in the office of the Secretary shall be endorsed thereon and recorded in that office.

Registration  
in register of  
designs.

52. (1) Upon the application the Governor General in Council may, after such inquiry as he thinks fit, make an order authorizing the registration of the design.

(2) When an order has been made under sub-section (1), the Secretary shall cause the design to be registered in a book to be kept by him for the purpose and to be called the register of designs.

(3) The date of registration shall be recorded in the register.

Acquisition  
of copyright.

53. When a design is registered, the proprietor thereof shall, subject to the other provisions of this Part, have copyright in the design during five years from the date of registration.

Marking  
registered  
designs.

54. (1) Before delivery on sale of any article to which a registered design has been applied, the proprietor of the design shall cause the article to be marked with the word “ registered ” either in full or in an abbreviated form.

(2) If he fails to cause the article to be so marked, the copyright in the design shall cease unless the proprietor shows that he took all proper steps to ensure the marking of the article.

Effect of ex-  
hibiting un-  
registered  
designs at  
exhibitions.

55. If the proprietor of a design exhibited at an industrial or international exhibition, certified as such by the Governor General in Council, causes an application for an order for the registration of the design to be delivered to or received by the Secretary within six months from the date of the admission of the design into that exhibition, the design shall not be deemed not to be a new and original design not previously published in British India

<sup>1</sup> See note to s. 4 (8), *supra*.

*(Part II.—Designs.)*

within the meaning of section 51 by reason only of the design having been exhibited at the exhibition.

56. Any person in whom the copyright in a design has become vested may apply to the Secretary for the entry of his name in the register of designs as proprietor of the copyright, and the Secretary may, if he sees fit, cause the entry to be made.

Mutation of names in register of designs.

57. (1) The registered proprietor of a design may institute a suit in the District Court for the recovery of any damages arising from the application by any person to any article of the design or of any fraudulent or obvious imitation thereof for the purpose of sale, or from the publication, sale or exposure for sale by any person of any article to which the design, or any fraudulent or obvious imitation thereof, has been applied, that person knowing or having reason to believe that the proprietor had not given his consent to such application.

Suit for infringement of copyright.

(2) When the Court makes a decree in a suit under this section, it shall send a copy of the decree to the Secretary who shall cause an entry thereof to be made in the register of designs.

58. When from the expiration of the term of a copyright or from any other cause the copyright in a design has ceased, the Secretary shall cause an entry with respect to the cessation of the right to be made in the register of designs.

Registration of cessation of copyright.

59. (1) A High Court may, on the application of any person aggrieved by an entry in the register of designs, or by the omission of an entry therefrom, make such order for the rectification of the register as it thinks fit.

Rectification of register of designs.

(2) An order under sub-section (1) may declare copyright in a design not to have been acquired.

(3) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause an entry thereof to be made in the register of designs.

(4) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

60. A High Court to which an application has been made under the last foregoing section may stay proceedings on, or dismiss, the application if, in its opinion, the application would be disposed of more justly or conveniently by another High Court.

Power to High Court to stay proceedings on, or dismiss, application for rectification of register.  
Application to this Part of certain

61. The provisions of the following portions of Part I, namely :—

(a) section 11, with respect to copies of specifications,



*(Part II.—Designs.)*

Provisions of  
art I.

- (b) section 14, with respect to the register of inventions and the matters entered therein, and
- (c) section 47, with respect to the performance by an agent of any act required or authorized by that Part to be done by a principal, shall, so far as they can be made applicable, apply, respectively, to—
  - (a) copies of drawings, photographs or tracings accompanying an application for an order for the registration of a design in respect of which such an order has been made,
  - (b) the register of designs and the matters entered and documents referred to therein, and
  - (c) the performance by an agent of any act required or authorized by this Part to be done by a principal.

Fees.

62. (1) There shall be paid in respect of the several proceedings specified in the sixth schedule the fees in that schedule prescribed.

(2) The Governor General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

<sup>1</sup>(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor General in Council may direct.

(4) A proceeding in respect of which a fee is payable under the sixth schedule shall be of no effect unless the fee has been paid.

Rules and  
forms.

63. The Governor General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part<sup>2</sup>, and may alter or amend the form in the fifth schedule.

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<sup>1</sup> As to notification issued under this sub-section, in conjunction with s. 48 (3), see Genl. Stat. R. & O., Vol. II.

<sup>2</sup> As to rules made under this power conferred by this section, in conjunction with s. 49, see Genl. Stat. R. & O., Vol. II.

(The First Schedule.—Enactments repealed.)

(The Second Schedule.—Application where Patent has not been obtained.)

## THE FIRST SCHEDULE.

## ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
XV of 1859 . .	For granting exclusive Privileges to Inventors.	So much as has not been repealed.
XIII of 1872 . .	Patterns and Designs Protection Act, 1872.	So much as has not been repealed.
XVI of 1883 . .	Protection of Inventions Act, 1883.	The whole.
1*      *	*      *      *      *      *	*      *

## THE SECOND SCHEDULE.

## APPLICATION WHERE PATENT HAS NOT BEEN OBTAINED.

(See sections 5 and 49.)

## TO THE GOVERNOR GENERAL IN COUNCIL.

The application of (*here insert name, occupation and address*) for leave to file a specification under Part I of the Inventions and Designs Act, 1888.

1. The applicant is in possession of an invention for (*state the title of the invention*); he is the inventor thereof (*or, as the case may be, the executor, administrator or assign of the inventor*); and, to the best of his information and belief, the invention is new within the meaning of Part I of the Inventions and Designs Act, 1888, and no circumstance exists which, if the applicant is authorized to file a specification and files it in accordance with that Part, will disentitle him to an exclusive privilege thereunder in respect of the invention. <sup>2</sup>[ *Here state whether an application has or has not at any time been made in the United Kingdom by, or on behalf of, the applicant for a patent in respect of the invention, and if any such application has been*

<sup>1</sup> The reference to Act I of 1879 was repealed by the Indian Stamp Act, 1899 (II of 1899) —see Sch. II, Genl. Acts, Vol. V.

<sup>2</sup> These words were added by notification made in exercise of the power conferred by s. 49 (1) of the Act,—see Genl. Stat. R. & O., Vol. II.

(The Third Schedule.—Application where Patent has been obtained.)

(The Fourth Schedule.—Fees (Inventions).)

*made, describe the progress of that application, adding a reference to every place in the Official Patent Journal where mention of the application, or of any proceeding thereon, is made.]*

2. The following is a description of the invention (*here describe it and the particular novelty whereof it consists*).

3. The applicant therefore applies for leave to file a specification of the invention pursuant to Part I of the Inventions and Designs Act, 1888.

(*Signature and verification.*)

### THE THIRD SCHEDULE.

APPLICATION WHERE PATENT HAS BEEN OBTAINED.

(*See sections 5 and 49.*)

TO THE GOVERNOR GENERAL IN COUNCIL.

The application of (*here insert name, occupation and address*) for leave to file a specification under Part I of the Inventions and Designs Act, 1888.

1. The applicant (*or, as the case may be, A. B., of whom the applicant is the executor, administrator or assign*) has obtained a patent in the United Kingdom dated and sealed as of the

day of \_\_\_\_\_, and actually sealed on the  
day of \_\_\_\_\_, for (*state the title of the invention*).

2. To the best of the information and belief of the applicant, the invention is new within the meaning of Part I of the Inventions and Designs Act, 1888, and no circumstance exists which, if the applicant is authorized to file a specification and files it in accordance with that Part, will disentitle him to an exclusive privilege thereunder in respect of the invention.

3. The following is a description of the invention (*here describe it and the particular novelty whereof it consists*).

4. The applicant therefore applies for leave to file a specification of the invention pursuant to Part I of the Inventions and Designs Act, 1888.

(*Signature and verification.*)

### THE FOURTH SCHEDULE.

FEEs (Inventions).

(*See sections 8, 15 and 48.*)

(1) in respect of an application for leave to file a specification	Rs.	A.	P.
(section 5)	.	.	.
		10	0 0
(2) in respect of the filing of a specification (section 8)	.	30	0 0

## (The Fourth Schedule.—Fees (Inventions).)

## THE FOURTH SCHEDULE—continued.

Rs. A. P.

(3) in respect of an extension of the time for filing a specification (section 8) . . . . .	20	0	0
(4) in respect of the continuance of an exclusive privilege (section 8)—			
(a) after the filing of the specification and before the expiration of the fourth year from the date of the filing thereof . . . . .	50	0	0
(b) after the expiration of the fourth year and before the expiration of the fifth year from that date . . . . .	50	0	0
(c) after the expiration of the fifth year and before the expiration of the sixth year from that date . . . . .	50	0	0
(d) after the expiration of the sixth year and before the expiration of the seventh year from that date . . . . .	50	0	0
(e) after the expiration of the seventh year and before the expiration of the eighth year from that date . . . . .	50	0	0
(f) after the expiration of the eighth year and before the expiration of the ninth year from that date . . . . .	100	0	0
(g) after the expiration of the ninth year and before the expiration of the tenth year from that date . . . . .	100	0	0
(h) after the expiration of the tenth year and before the expiration of the eleventh year from that date . . . . .	100	0	0
(i) after the expiration of the eleventh year and before the expiration of the twelfth year from that date . . . . .	100	0	0
(j) after the expiration of the twelfth year and before the expiration of the thirteenth year from that date . . . . .	100	0	0

Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due.

## (The Fourth Schedule.—Fees (Inventions).)

THE FOURTH SCHEDULE— <i>continued.</i>		Rs.	A.	P.
(5)	in respect of an enlargement of the time for payment of a fee under article (4) of this schedule (section 8)—			
(i)	if the enlargement does not exceed one month	10	0	0
(ii)	if the enlargement exceeds one month, but does not exceed two months	25	0	0
(iii)	if the enlargement exceeds two months	50	0	0
(6)	in respect of an application for an extension of an exclusive privilege for a further term (section 15)	50	0	0
(7)	in respect of an order extending the term of an exclusive privilege (section 15)	100	0	0
(8)	in respect of the continuance of an exclusive privilege of which the term has been extended (section 15)	100	0	0
		to be paid before the expiration of each year of the extended term :		
<p>Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due.</p>				
(9)	in respect of an application for leave to file a memorandum or amended specification (section 18)	20	0	0
(10)	in respect of a petition to the Governor General in Council for a compulsory license (section 43)	50	0	0
(11)	for the inspection of any book or other document which is open to inspection under Part I	1	0	0
(12)	for copies—			
(a)	when the number of words copied does not exceed four hundred	1	0	0
(b)	for every hundred words in excess of four hundred	0	4	0
(c)	of drawings or photographs	cost, according to agreement.		

(*The Fourth Schedule.—Fees (Inventions).*) (*The Fifth Schedule.—Application for Order for Registration of Design.*) (*The Sixth Schedule.—Fees (Designs).*)

(13) for certifying copies—	Rs.	A.	P.
for every hundred words . . . . .	0	2	0

### THE FIFTH SCHEDULE.

#### APPLICATION FOR ORDER FOR REGISTRATION OF DESIGN.

(*See sections 51 and 63.*)

The application of (*here insert name, occupation and address*) for an order for the registration of a design under Part II of the Inventions and Designs Act, 1888.

1. The applicant claims to be the proprietor of the design of which the nature is hereinafter stated.

2. To the best of his information and belief, that design is, within the meaning of Part II of the Inventions and Designs Act, 1888, a new and original design not previously published in British India.

3. copies of (*drawings*), (*photographs*), (*tracings*) of the design accompany this application.

4. The following is a statement of the nature of the design (*here describe its nature*).

5. The applicant therefore applies for an order for the registration of the design pursuant to Part II of the Inventions and Designs Act, 1888.

(*Signature.*)

### THE SIXTH SCHEDULE.

#### FEES (*Designs*).

(*See section 62.*)

	Rs.	A.	P.
(1) in respect of an application for an order for the registration of a design (section 51) . . . . .	10	0	0
(2) in respect of a mutation of names in the register of designs (section 56) . . . . .	5	0	0
(3) for the inspection of any book or other document which is open to inspection under Part II . . . . .	1	0	0
(4) for copies—			
(a) when the number of words copied does not exceed four hundred . . . . .	1	0	0
(b) for every hundred words in excess of four hundred . . . . .	0	4	0
(c) of drawings, photographs or tracings . . . . .	cost according to agreement.		
(5) for certifying copies—			
for every hundred words . . . . .	0	2	0

ACT No. VIII OF 1888.<sup>1</sup>

[5th September, 1888.]

## An Act to remove doubts as to the legality of the levy of certain Tolls.

WHEREAS doubts have been raised as to the operation of the Acts of the Governor General in Council<sup>2</sup>, No. VIII of 1851 (*an Act for enabling Government to levy Tolls on Public Roads and Bridges*) and<sup>3</sup> No. XV of 1864 (*an Act to amend Act VIII of 1851*); It is hereby enacted as follows:—

Enforcement  
of Acts, VIII  
of 1851 and  
XV of 1864,  
in the Punjab.

1. Acts VIII of 1851 and XV of 1864 shall be deemed to be in force throughout the territories now administered by the Lieutenant-Governor of the Punjab, and from the twenty-first day of August, 1857, and the twenty-fourth day of March, 1864, respectively, to have been in force in the territories for the time being administered as part of the Punjab.

Operation of  
the Act in  
the Punjab  
and certain  
other parts  
of British  
India.

2. (1) In any part of British India beyond the limits of the territories administered by the Governor of Fort St. George in Council, and the Lieutenant-Governors of Bengal and the North-Western Provinces, to or in which<sup>2</sup> Acts VIII of 1851 and<sup>3</sup> XV of 1864 may be or have been extended<sup>3</sup>, or may be or have been declared to be in force, under the latter of those Acts or by this Act or by or under any other enactment, the Local Government shall be deemed to have and, where the Acts have been in force before the passing of this Act, to have had the same authority as if it had been included among the Local Governments specified in section 2 of Act VIII of 1851.

(2) "Presidency", where that word occurs in section 8 of Act VIII of 1851, shall be deemed to mean, and to have meant, the territories under the administration of a Local Government.

Validation  
of past levy  
of tolls.

3. All tolls levied, or purporting to have been levied, under Acts VIII of 1851 and XV of 1864, or either of those Acts, before the passing of this Act shall be deemed to have been lawfully levied.

Saving.

4. Nothing in the foregoing sections shall affect any proceedings commenced in any Civil Court before the first day of July, 1888.

<sup>1</sup> Short title, "The Indian Tolls Act, 1888," see the Indian Short Titles Act, 1897 (14 of 1897), Genl. Acts, Vol. IV.

For Statement of Objects and Reasons. see Gazette of India, 1888, Pt. V, p. 43 and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 82 and 93.

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

It had been previously declared in force there under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), Genl. Acts, Vol. II, see Burma Gazette, 1888, Pt. I, p. 497, and Gazette of India, 1888, Pt. I, p. 478.

<sup>2</sup> Genl. Acts, Vol. I.

<sup>3</sup> For notification extending the provisions of Act 8 of 1851 and of Act 15 of 1864 to Lower Burma, under s. 2 of this Act, see Burma R. M., Vol. I.

1888 : Act VIII.]

*Tolls.*

113

1888 : Act XI.]

*Telegraph.*

1888 : Act XVII.]

*Marine.*

5. In section 2 of Act VIII of 1851<sup>1</sup> \* \* \* \* the word “and” shall be inserted between the words “the Lieutenant-Governor of the North-Western Provinces of Bengal” and the words “the Governor of the Presidency of Fort St. George in Council”.

Amendment  
of section 2,  
Act VIII,  
1851.

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ACT No. XI OF 1888.<sup>2</sup>

[5th October, 1888.]

An Act to make an addition to the Indian Telegraph Act, 1885.

WHEREAS it is expedient to make an addition to the Indian Telegraph Act, 1885; It is hereby enacted as follows :—

1. The following section shall be added to that Act, namely :—

*See Vol. III.*

Addition of  
section to Act  
XIII of 1885.

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ACT No. XVII OF 1888.<sup>3</sup>

[26th October, 1888.]

An Act to amend the Indian Marine Act, 1887.

XIV of 1887. WHEREAS it is expedient to amend the Indian Marine Act, 1887; It is hereby enacted as follows :—

Amendment  
of section 2,  
Act XIV of  
1887.

1. For sub-section (2) of section 2 of the Indian Marine Act, 1887, the following shall be substituted, namely :—

(*Vide supra*, p. 47.)

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<sup>1</sup> The words “the words ‘and the Governor of the Presidency of Bombay in Council’ are hereby repealed and” were repealed by the Repealing and Amending Act, 1891 (12 of 1891).

<sup>2</sup> Short title, “The Indian Telegraph (Presidency-towns) Act, 1888,” *see* the Indian Short Titles Act, 1897 (14 of 1897), Genl. Acts, Vol. V.

For Statement of Objects and Reasons, *see* Gazette of India, 1888, Pt. V, p. 45 and for Proceedings in Council, *see ibid.*, Pt. VI, pp. 83 and 102.

<sup>3</sup> Short title, “The Indian Marine Act (1887) Amendment Act, 1888,” *see* the Indian Short Titles Act, 1897 (14 of 1897).

For Statement of Objects and Reasons, *see* Gazette of India, 1888, Pt. V, p. 103 and for Proceedings in Council, *see ibid.*, Pt. VI, pp. 110 and 133.

This Act is in force in Upper Burma (except the Shan States) as being part of the original Act (14 of 1887) declared in force there by the Burma Laws Act, 1898 (13 of 1898), s. 4, Bur. Code.



ACT No. I OF 1889.<sup>1</sup>

[1st February, 1889.]

## An Act for the Protection of Coinage and other purposes.

WHEREAS it is expedient to prohibit the making, or the possession for issue or the issue, by private persons, of pieces of metal for use as money ;

And whereas it is also expedient to amend section 28 of the <sup>2</sup> Indian Penal Code ;

It is hereby enacted as follows :—

Title, extent  
and com-  
mencement.

1. (1) This Act may be called the Metal Tokens Act, 1889.

(2) It extends to the whole of British India ; and

(3) It shall come into force at once.

Definition.

2. In this Act “ issue ” means to put a piece of metal into circulation for the first time for use as money in British India, such piece having been made in contravention of this Act or brought into British India by sea or by land in contravention of any notification for the time being in force under section 19 of the <sup>3</sup> Sea Customs Act, 1878.

Prohibition  
of making  
by private  
persons of  
pieces of  
metal to be  
used as  
money..  
Penalty for  
unlawful  
making,  
issue or  
possession of  
such pieces.

3. No piece of copper or bronze or of any other metal or mixed metal, which, whether stamped or unstamped, is intended to be used as money, shall be made except by the authority of the Governor General in Council.

VIII of 18

4. (1) In either of the following cases, namely :—

(a) if any person makes in contravention of the last foregoing section, or issues or attempts to issue, any such piece as is mentioned in that section,

(b) if, after the expiration of three months from the commencement of this Act, any person has in his possession, custody or control any such piece as is mentioned in the last foregoing section, with intent to issue the piece,

the person shall be punished,

(i) if he has not been previously convicted under this section, with imprisonment which may extend to one year, or with fine, or with both : or,

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1888, Pt. V, p. 19 ; for Report of the Select Committee, see *ibid*, 1889, Pt. IV, p. 3 and for Debates in Council, see *ibid*, 1888, Pt. VI, pp. 40 and 8, and *ibid*, 1889, Pt. VI, pp. 3 and 9.

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

It had been previously extended there by notification under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), Genl. Acts, Vol. II, see Burma Gazette, 1893, Pt. I, p. 154.

<sup>2</sup> Genl. Acts, Vol. I.

<sup>3</sup> Genl. Acts, Vol. II.

(ii) if he has been previously convicted under this section, with imprisonment which may extend to three years, or with fine, or with both.

(2) If any person is convicted of an offence under sub-section (1), he shall, in addition to any other punishment to which he may be sentenced, forfeit all such pieces, as aforesaid, and all instruments and materials for the making of such pieces, which may have been found in his possession, custody or control.

(3) If in the trial of any such offence the question arises whether any piece of metal or mixed metal was intended to be used or to be issued for use as money, the burden of proving that the piece was not intended to be so used or issued shall lie on the accused person.

5. (1) The offence of making, in contravention of section 3, any such piece as is mentioned in that section shall be a cognizable offence.

Cognizance of offences under the last foregoing section.

X of 1882.

(2) Notwithstanding anything in the<sup>1</sup> Code of Criminal Procedure, 1882, no other offence punishable under section 4 shall be a cognizable offence, or beyond the limits of a presidency-town be taken cognizance of by any Magistrate, except a District Magistrate or Sub-Divisional Magistrate, without the previous sanction of the District Magistrate or Sub-Divisional Magistrate.

VIII of 1878.

6. If at any time the Governor-General in Council sees fit, by notification under section 19 of the<sup>2</sup> Sea Customs Act, 1878 to prohibit or restrict the bringing by sea or by land into British India of any such pieces of metal as are mentioned in section 3, he may by the notification<sup>3</sup> direct that any person contravening the prohibition or restriction shall be liable to the punishment to which he would be liable if he were convicted under this Act of making such pieces in British India, instead of to the penalty mentioned in section 167 of the<sup>2</sup> Sea Customs Act, 1878, and that the provisions of sub-section (3) of section 4 and sub-section (1) of section 5, or of either sub-section, in relation to the offence of making such pieces shall, notwithstanding anything in the<sup>2</sup> Sea Customs Act, 1878, apply, so far as they can be made applicable, to the offence of contravening the prohibition or restriction notified under section 19 of that Act.

Application of certain of the foregoing provisions of this Act to importation of pieces of metal for use as money.

7. [Addition to section 98, Act X of 1882.] *Rep. by the Code of Criminal Procedure, 1898 (Act V of 1898).*

XLV of 1860.

8. (1) No piece of metal which is not coin as defined in the<sup>4</sup> Indian Penal Code shall be received as money by or on behalf of any railway-administration or local authority.

Prohibition of receipt by local authorities and railways as

<sup>1</sup> See now the Code of Criminal Procedure, 1898 (Act V of 1898), Genl. Acts, Vol. V.

<sup>2</sup> Genl. Acts, Vol. II.

<sup>3</sup> For notification issued under this power, see Genl. Stat. R. and O., Vol. II.

<sup>4</sup> Genl. Acts, Vol. I.

money of  
metal which  
is not coin.

(2) If any person on behalf of a railway-administration, or on behalf of a local authority, or on behalf of the lessee of the collection of any toll or other impost leviable by a railway-administration or local authority, receives as money any piece of metal which is not such coin as aforesaid, he shall be punished with fine which may extend to ten rupees.

Amendment  
of section 28  
of the Indian  
Penal Code.

9. For the *Explanation* to section 28 of the <sup>1</sup> Indian Penal Code the following shall be substituted, namely :—

XLV of 1860

“ *Explanation 1.*—It is not essential to counterfeiting that the imitation should be exact.

“ *Explanation 2.*—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised.”

### ACT No. II OF 1889.<sup>2</sup>

[15th February, 1889.]

An Act to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India.

WHEREAS it is expedient to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India; It is hereby enacted as follows :—

Title, extent  
and com-  
mencement.

1. (1) This Act may be called the Measures of Length Act, 1889.

(2) It extends to the whole of British India; and

(3) It shall come into force on such <sup>3</sup> day as the Governor General in Council may appoint in this behalf.

Standard  
yard.

2. The imperial standard yard for the United Kingdom shall be the legal standard measure of length in British India and be called the standard yard.

Measure for  
determining

3. A copy, approved by the Governor General in Council, of the imperial

<sup>1</sup> Genl. Acts, Vol. I.

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1888, Pt. V, p. 41; for Report of the Select Committee, see *ibid.*, 1889, Pt. IV, p. 6 and for Proceedings in Council, see *ibid.*, 1888, Pt. VI, pp. 66 and 82, and *ibid.*, 1889, Pt. VI, p. 20.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

It had been previously extended there, by notification under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), Genl. Acts, Vol. II, see Burma Gazette, 1893, Pt. I, p. 154.

<sup>3</sup> The Act was brought into force on the 15th June, 1889, see Genl. Stat. R. and O., Vol. II.

standard for determining the length of the imperial standard yard for the United Kingdom shall be kept in such place within the limits of the Town of Calcutta as the Governor General in Council may <sup>1</sup> prescribe, and shall be the standard for determining the length of the standard yard.

length of  
standard  
yard.

4. One-third part of the standard yard shall be called a standard foot, and one-thirty-sixth part of such a yard shall be called a standard inch.

Standard  
foot and  
inch.

5. Any measure having stamped thereon or affixed thereto a certificate purporting to be made under the authority of the Governor General in Council or of a Local Government, and stating that the measure is of the length of the standard yard or that a measure marked thereon as a foot or inch is of the length of the standard foot or standard inch, as the case may be, shall, when produced before any Court by any public servant having charge of the measure in pursuance of any direction published in an official Gazette by order of the Governor General in Council or the <sup>2</sup> Local Government, or by any person acting under the general or special authority of such a public servant, be deemed to be correct until its inaccuracy is proved.

Presumption  
in favour of  
accuracy of  
certified  
measures.

6. A public servant having in pursuance of such a direction charge of such a measure as is mentioned in the last foregoing section shall allow any person to inspect it free of charge at all reasonable times and to compare therewith or with any measure marked thereon any measure which such person may have in his possession.

Inspection of  
certified  
measures by  
the public.

Ben. Act IV  
of 1866.

Ben. Act II  
of 1888.  
Mad. Act III  
of 1888.

Bom. Act III  
of 1888.

7. There shall be kept by the Commissioner of Police in the Town of Calcutta under section 55 of the <sup>3</sup> Calcutta Police Act, 1866, by the Commissioners in Calcutta under section 370 of the <sup>4</sup> Calcutta Municipal Consolidation Act, 1888, by the Commissioner of Police in the City of Madras under section 32 of the <sup>5</sup> Madras City Police Act, 1888, by the Municipal Commissioner in the City of Bombay under section 418 of the <sup>6</sup> City of Bombay Municipal Act, 1888, and by the District Magistrate under section 20 of <sup>7</sup> Regulation XII of 1827 of the Bombay Code, such certified measures

Certified  
measures to  
be kept by  
authorities  
required by  
existing en-  
actments  
to keep  
measures of  
length.

<sup>1</sup> For notification prescribing such a place, *see* Genl. Stat. R. & O., Vol. II.

<sup>2</sup> For officers appointed to have charge of such measures in—

(1) Ajmer-Merwara, *see* Aj. Local R. & O., Vol. I.

(2) Assam, *see* Assam Man. of R. & O.

(3) Bombay, *see* Bom. R. & O., Vol. I.

(4) Burma, *see* Bur. R. M., Vol. I.

(5) Central Provinces, *see* Cenl. Provs. R. & O.

(6) Coorg, *see* Coorg R. & O.

(7) Madras, *see* Mad. R. & O., Vol. I.

(8) Punjab, *see* Pun. List of Local R. & O.

(9) United Provinces of Agra and Oudh, *see* the U. P. List of Local R. & O., Vol. I.

<sup>3</sup> Ben. Code, Vol. II.

<sup>4</sup> *Ibid.*

<sup>5</sup> Mad. Code, Vol. II.

<sup>6</sup> Bom. Code, Vol. III.

<sup>7</sup> Bom. Code, Vol. I.

of the standard yard, standard foot and standard inch as are mentioned in section 5.

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ACT No. IV of 1889.<sup>1</sup>

[1st March, 1889.]

An Act to amend the Law relating to Fraudulent Marks on merchandise.

WHEREAS it is expedient to amend the law relating to fraudulent marks on merchandise ; It is hereby enacted as follows :—

Title, extent  
and com-  
mencement.

1. (1) This Act may be called the Indian Merchandise Marks Act, 1889.
- (2) It extends to the whole of British India ;<sup>2</sup> \* \* \* \*
- (3) It shall come into force on the first day of April, 1889.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

- (1) “ trade mark ” has the meaning assigned to that expression in section XLV of 1860. 478 of the <sup>3</sup> Indian Penal Code as amended by this Act :

- (2) “ trade description ”<sup>4</sup> means any description, statement or other indication, direct or indirect,—

- (a) as to the number, quantity, measure, gauge or weight of any goods, or
- (b) as to the place or country in which, or the time at which, any goods were made or produced, or
- (c) as to the mode of manufacturing or producing any goods, or
- (d) as to the material of which any goods are composed, or
- (e) as to any goods being the subject of an existing patent, privilege or copyright ;

and the use of any numeral, word or mark which according to the custom of the trade is commonly taken to be an indication of any of the above matters shall be deemed to be a trade description within the meaning of this Act :

- (3) <sup>4</sup> “ false trade description ” means a trade description which is untrue in a material respect as regards the goods to which it is

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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1888, Pt. V, p. 109 ; for Report of the Select Committee, see *ibid.*, 1889, Pt. V, p. 27 and for Proceedings in Council, see *ibid.*, 1888, Pt. VI, pp. 111 and 136, and *ibid.*, 1889, Pt. VI, p. 38

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

<sup>2</sup> The words “ and subject to the provision of the last section of this Act ” were repealed by the Indian Merchandise Marks and Sea Customs Acts Amendment Act, 1891 (9 of 1891), *infra*.

<sup>3</sup> Genl. Acts, Vol. I.

<sup>4</sup> Cf. the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 3 (1)].

*(Amendment of the Indian Penal Code.)*

applied, and includes every alteration of a trade description, whether by way of addition, effacement or otherwise, where that alteration makes the description untrue in a material respect, and the fact that a trade description is a trade mark or part of a trade mark shall not prevent such trade description being a false trade description within the meaning of this Act.

(4) "goods" means anything which is the subject of trade or manufacture : and

(5) "name" includes any abbreviation of a name.

*Amendment of the Indian Penal Code.*

XLV of 1860.

3. For that part of Chapter XVIII of the <sup>1</sup>Indian Penal Code which relates to Trade and Property Marks, the following shall be substituted, namely :—

Substitution of new sections for sections 478 to 479 of the Indian Penal Code.

*"Of Trade, Property and other marks.*

<sup>2</sup>"478. A mark used for denoting that goods are the manufacture or merchandise of a particular person is called a trade mark, and for the purposes of this Code the expression 'trade mark' includes any trade mark which is registered in the register of trade marks kept under the Patents, Designs and Trade Marks Act, 1883, and any trade mark which, either with or without registration, is protected by law in any British possession or foreign State to which the provisions of the one hundred and third section of the Patents, Designs and Trade Marks Act, 1883, are, under Order in Council, for the time being applicable.

Trade mark.

45 & 47 Vict.,  
c. 57.

"479. A mark used for denoting that moveable property belongs to a particular person is called a property mark.

Property mark.

"480. Whoever marks any goods or any case, package or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, are the manufacture or merchandise of a person whose manufacture or merchandise they are not, is said to use a false trade mark.

Using a false trade mark.

"481. Whoever marks any moveable property or goods or any case, package or other receptacle containing moveable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so

Using a false property mark.

<sup>1</sup> Genl. Acts, Vol. I.

<sup>2</sup> Cf. the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 3 (1)].

*(Amendment of the Indian Penal Code.)*

marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark.

**Punishment for using a false trade mark or property mark.**

“482. Whoever uses any false trade mark or any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year or with fine, or with both.

**Counterfeiting a trade mark or property mark used by another.**

“483. Whoever counterfeits any trade mark or property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**Counterfeiting a mark used by a public servant.**

“484. Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place or that the property is of a particular quality or has passed through a particular office or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

**Making or possession of any instrument for counterfeiting a trade mark or property mark.**

“485. Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, or has in his possession a trade mark or property mark for the purpose of denoting that any goods are the manufacture or merchandise of a person whose manufacture or merchandise they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**Selling goods marked with a counterfeit trade mark or property mark.**

“486. Whoever sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—

(a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and

(b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

*(Trade Descriptions.)*

(c) that otherwise he had acted innocently, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

" 487. Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof, shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Making false mark upon any receptacle containing goods.

" 488. Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.

Punishment for making use of any such false mark.

" 489. Whoever removes, destroys, defaces or adds to any property mark intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both."

Tampering with property mark with intent to cause injury.

*Trade Descriptions.*

<sup>1</sup> 4. (1) The provisions of this Act respecting the application of a false trade description to goods or respecting goods to which a false trade description is applied, shall extend to the application to goods of any such numerals, words or marks, or arrangement or combination thereof, whether including a trade mark or not, as are or is reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are, and to goods having such numerals, words or marks, or arrangement or combination, applied thereto.

Provisions supplemental to the definition of false trade description.

<sup>2</sup> (2) The provisions of this Act respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, shall extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description, and for the

<sup>1</sup> Cf. the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 3 (2)], and Wright thereon, pp. 16 and 38.

<sup>2</sup> Cf. the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 3 (3)].



*(Trade Descriptions.)*

purpose of this enactment the expression false name or initials means as applied to any goods any name or initials—

- (a) not being a trade mark, or part of a trade mark, and
- (b) being identical with, or a colourable imitation of the name or initials of a person carrying on business in connection with goods of the same description and not having authorized the use of such name or initials.

(3) A trade description which denotes or implies that there are contained in any goods to which it is applied more yards, feet or inches than there are contained therein standard yards, standard feet or standard inches is a false trade description.

Application  
of trade  
descriptions.

<sup>1</sup> 5. (1) A person shall be deemed to apply a trade description to goods who—

- (a) applies it to the goods themselves, or
- (b) applies it to any covering, label, reel or other thing in or with which the goods are sold or are exposed or had in possession for sale or any purpose of trade or manufacture, or
- (c) places, encloses or annexes any goods which are sold, or are exposed or had in possession for sale or any purpose of trade or manufacture, in, with or to any covering, label, reel or other thing to which a trade description has been applied, or
- (d) uses a trade description in any manner reasonably calculated to lead to the belief that the goods in connection with which it is used are designated or described by that trade description.

(2) A trade description shall be deemed to be applied whether it is woven, impressed or otherwise worked into or annexed or affixed to the goods or any covering, label, reel or other thing.

(3) The expression “covering” includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame or wrapper, and the expression “label” includes any band or ticket.

Penalty for  
applying a  
false trade  
description.

<sup>2</sup> 6. If a person applies a false trade description to goods, he shall, subject to the provisions of this Act, and unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both.

<sup>1</sup> Cf. the Merchandise Marks Act, 1887 [ 50 & 51 Vict., c. 28, s. 5 ].

<sup>2</sup> Cf. the Merchandise Marks Act, 1887 [ 50 & 51 Vict., c. 28, s. 2 (1) ]. For instructions as to prosecutions under this section for offences relating to the short reeling of yarn in Indian mills, see Bombay Government Gazette, 1906, Pt. I, p. 487.

(Trade Descriptions. Unintentional Contravention of the Law relating to Marks and Descriptions.)

<sup>1</sup> 7. If a person sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, he shall, unless he proves—

Penalty for selling goods to which a false trade description is applied.

(a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade description, and

(b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(c) that otherwise he had acted innocently,

be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, and in case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both.

*Unintentional Contravention of the Law relating to Marks and Descriptions.*

XLV of 1860.

<sup>2</sup> 8. Where a person is accused under section 482 of the <sup>3</sup> Indian Penal Code of using a false trade mark or property mark by reason of his having applied a mark to any goods, property or receptacle in the manner mentioned in section 480 or section 481 of that Code, as the case may be, or under section 6 of this Act of applying to goods any false trade description, or under section 485 of the <sup>3</sup> Indian Penal Code of making any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, and proves—

Unintentional contravention of the law relating to marks and descriptions.

(a) that in the ordinary course of business he is employed, on behalf of other persons, to apply trade marks or property marks, or trade descriptions, or, as the case may be, to make dies, plates or other instruments for making, or being used in making, trade marks or property marks, and that in the case which is the subject of the charge he was so employed and was not interested in the goods or other thing by way of profit or commission dependent on the sale thereof, and

(b) that he took reasonable precautions against committing the offence charged, and

<sup>1</sup> For instructions as to prosecutions under this section for offences relating to the short reeling of yarn in Indian mills, see Bombay Government Gazette, 1906, Pt. I, p. 487.

<sup>2</sup> Cf. the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 23, s. 6].

<sup>3</sup> Genl. Acts, Vol. I.

*(Forfeiture of Goods. Amendment of the Sea Customs Act, 1878.)*

(c) that he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the mark or description, and  
 (d) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons on whose behalf the mark or description was applied,  
 he shall be acquitted.

*Forfeiture of Goods.*

Forfeiture of  
goods.

<sup>1</sup> 9. (1) When a person is convicted under section 482 of the <sup>2</sup> Indian Penal Code of using a false trade mark, or under section 486 of that Code of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark applied thereto, or under section 487 or section 488 of that Code of making, or making use of, a false mark, or under section 6 or section 7 of this Act of applying a false trade description to goods or of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied, or is acquitted on proof of the matter or matters specified in section 486 of the <sup>2</sup> Indian Penal Code or section 7 or section 8 of this Act, the Court convicting or acquitting him may direct the forfeiture to Her Majesty of all goods and things by means of, or in relation to, which the offence has been committed or, but for such proof as aforesaid, would have been committed.

LV of 18

(2) When a forfeiture is directed on a conviction, and an appeal lies against the conviction, an appeal shall lie against the forfeiture also.

(3) When a forfeiture is directed on an acquittal and the goods or things to which the direction relates are of value exceeding fifty rupees, an appeal against the forfeiture may be preferred, within thirty days from the date of the direction, to the Court to which in appealable cases appeals lie from sentences of the Court which directed the forfeiture.

*Amendment of the <sup>3</sup> Sea Customs Act, 1878.*

Amendment  
of section 18,  
Act VIII of  
1878.

<sup>4</sup> 10. (1) For clause (d) of section 18 of the Sea Customs Act, 1878, the following shall be substituted, namely:—

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“ (d) goods having applied thereto a counterfeit trade mark within the

<sup>1</sup> Cf. the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 2 (3) (iii)].

<sup>2</sup> Genl. Acts, Vol. I.

<sup>3</sup> Genl. Acts, Vol. II.

<sup>4</sup> Cf. the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 16 (2)].

*(Amendment of the Sea Customs Act, 1878.)*

XLV of 1860.  
IV of 1889.

meaning of the <sup>1</sup> Indian Penal Code, or a false trade description within the meaning of the Indian Merchandise Marks Act, 1889 :

(e) goods made or produced beyond the limits of the United Kingdom and British India and having applied thereto any name or trade mark being, or purporting to be,<sup>2</sup> \* \* \* \* of, the name or trade mark of any person who is a manufacturer, dealer or trader in the United Kingdom or in British India, unless—

(i) the name or trade mark is, as to every application thereof, accompanied by a definite indication of the goods having been made or produced in a place beyond the limits of the United Kingdom and British India, and

(ii) <sup>3</sup> [the country in which that place is situated is] in that indication indicated in letters as large and conspicuous as any letter in the name or trade mark, and the same language and character as the name or trade mark.”

(2) To section 18 of the <sup>4</sup> Sea Customs Act, 1878, as amended by subsection (1), the following shall be added, namely :—

“(f) piece-goods, such as are ordinarily sold by length or by the piece, which—

(i) have not conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece, and

(ii) have been manufactured beyond the limits of India, or

(iii) having been manufactured within those limits have been manufactured beyond the limits of British India in premises which, if they were in British India, would be a factory as defined in the <sup>4</sup> Indian Factories Act, 1881.

XV of 1881.  
VIII of 1878.

11. The following shall be added after section 19 of the Sea Customs Act, 1878, namely :—

“ 19A. (1) Before detaining any such goods as are or may be specified in or under section 18 or section 19, as the case may be, or taking any further

Addition of  
a section  
after section  
19, Act VIII  
of 1878.

<sup>1</sup> Genl. Acts, Vol. I.

<sup>2</sup> The words “or being a colourable imitation of” were repealed by the Sea Customs (Amendments) Act, 1904 (16 of 1904), Genl. Acts, Vol. VI.

<sup>3</sup> The words “the country in which that place is situated is” were substituted for the words “that place and the country in which it is situated are” by the Indian Merchandise Marks and Sea Customs Acts Amendment Act, 1891 (IX of 1891), *infra*.

<sup>4</sup> Genl. Acts, Vols. II and III respectively.

<sup>5</sup> Cf. the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 16 (2), (3), (4), (5), (7) and (8)].

*(Stamping of Length of Piece-goods manufactured in British India.)*

proceedings with a view to the confiscation thereof under this Act, the Chief Customs-officer or other officer appointed by the Local Government in this behalf may require the regulations under this section, whether as to information, security, conditions or other matters, to be complied with and may satisfy himself in accordance with those regulations that the goods are such as are prohibited to be imported.

(2) The Governor General in Council may make regulations, either general or special, respecting the detention and confiscation of goods the importation of which is prohibited, and the conditions, if any, to be fulfilled before such detention and confiscation, and may by such regulations determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this section and the mode of verification of such evidence.

(3) Where there is on any goods a name which is identical with, or a colourable imitation of, the name of a place in the United Kingdom or British India, that name, unless accompanied in equally large and conspicuous letters, and in the same language and character, by the name of the country in which such place is situate, shall be treated for the purposes of sections 18 and 19 as if it were the name of a place in the United Kingdom or British India.

(4) Such regulations may apply to all goods the importation of which is prohibited by section 18 or under section 19, or different regulations may be made respecting different classes of such goods or of offences in relation to such goods.

(5) The regulations may provide for the informant reimbursing any public officer and the Secretary of State for India in Council all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention.

(6) All regulations under this section shall be published in the Gazette of India and in the Calcutta, Fort St. George, Bombay and Burma Gazettes."

*Stamping of Length of Piece-goods manufactured in British India.*

Stamping of  
length of  
piece-goods  
manufactured  
in British  
India.

12. (1) Piece-goods, such as are ordinarily sold by length or by the piece, which have been manufactured in premises which are a factory as defined in the <sup>1</sup>Indian Factories Act, 1881, shall not be removed from those premises without having conspicuously stamped in English numerals on each

XV of 1881.

<sup>1</sup> Genl. Acts, Vol. III.

## (Supplemental Provisions.)

piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece.

(2) If any person removes or attempts to remove any such piece-goods from any such premises without the length of each piece being stamped in the manner mentioned in sub-section (1), every such piece, and everything used for the packing or removal thereof, shall be forfeited to Her Majesty, and such person shall be punished with fine which may extend to one thousand rupees.

## Supplemental Provisions.

VIII of 1878. <sup>1</sup> 13. In the case of goods brought into British India by sea, evidence of the port of shipment shall, in a prosecution for an offence against this Act or section 18 of the <sup>2</sup>Sea Customs Act, 1878, as amended by this Act, be *prima facie* evidence of the place or country in which the goods were made or produced. Evidence of origin of goods imported by sea.

XLV of 1860. <sup>3</sup> 14. (1) On any such prosecution as is mentioned in the last foregoing section or on any prosecution for an offence against any of the sections of the <sup>4</sup>Indian Penal Code, as amended by this Act, which relate to trade, property and other marks, the Court may order costs to be paid to the defendant by the prosecutor or to the prosecutor by the defendant, having regard to the information given by and the conduct of the defendant and prosecutor respectively. Costs of defence or prosecution

(2) Such costs shall, on application to the Court, be recoverable as if they were a fine.

<sup>5</sup> 15. No such prosecution as is mentioned in the last foregoing section shall be commenced after the expiration of three years next after the commission of the offence, or one year after the first discovery thereof by the prosecutor, whichever expiration first happens. Limitation of prosecution.

16. (1) The Governor General in Council may, by notification in the Gazette of India and in local official Gazettes, issue <sup>6</sup> instructions for observance by Criminal Courts in giving effect to any of the provisions of this Act. Authority of the Governor General in Council to issue instructions as to administration of this Act.

(2) Instructions under sub-section (1) may provide, among other matters, for the limits of variation, as regards number, quantity, measure, gauge or

<sup>1</sup> Cf. the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 10 (2)].

<sup>2</sup> Genl. Acts, Vol. II.

<sup>3</sup> Cf. the Merchandise Marks Act, 1887 (50 & 51 Vict., c. 28, s. 14).

<sup>4</sup> Genl. Acts, Vol. I.

<sup>5</sup> Cf. the Merchandise Marks Act, 1887 (50 & 51, Vict., c. 28, s. 15).

<sup>6</sup> For notifications containing such instructions, see Genl. Stat. R. and O., Vol. II, and Bur. R. M., Vol. II.

## (Supplemental Provisions.)

weight, which are to be recognized by Criminal Courts as permissible in the case of any goods.

Implied  
warranty on  
sale of  
marked  
goods.

<sup>1</sup> 17. On the sale or in the contract for the sale of any goods to which a trade mark or mark or trade description has been applied, the seller shall be deemed to warrant that the mark is a genuine mark and not counterfeit or falsely used, or that the trade description is not a false trade description within the meaning of this Act, unless the contrary is expressed in some writing signed by or on behalf of the seller and delivered at the time of the sale or contract to and accepted by the buyer.

Savings.

<sup>2</sup> 18. (1) Nothing in this Act shall exempt any person from any suit or other proceeding which might, but for anything in this Act, be brought against him.

(2) Nothing in this Act shall entitle any person to refuse to make a complete discovery or to answer any question or interrogatory in any suit or other proceeding, but such discovery or answer shall not be admissible in evidence against such person in any such prosecution as is mentioned in section 14.

(3) Nothing in this Act shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in British India who in good faith acts in obedience to the instructions of such master, and on demand made by or on behalf of the prosecutor, has given full information as to his master and as to the instructions which he has received from his master.

<sup>3</sup> 19. [ *Date of commencement of this Act as regards unstamped piece-goods.* ]  
*Rep. Act IX of 1891.*

Definition of  
piece-goods.

<sup>4</sup> 19. For the purpose of section 12 of this Act and clause (f) of section 18 of the <sup>5</sup> Sea Customs Act, 1878, as amended by this Act, the Governor General in Council may, by notification in the Gazette of India, <sup>6</sup> declare what classes of goods are included in the expression 'piece-goods, such as are ordinarily sold by length or by the piece.'

Determina-  
tion of  
character of  
goods by  
sampling.

<sup>4</sup> 20. (1) The Governor General in Council may make <sup>6</sup> rules, for the purposes of this Act, to provide, with respect to any goods which purport or are alleged to be of uniform number, quantity, measure, gauge or weight, for the

<sup>1</sup> Cf. the Merchandise Marks Act, 1887 (50 & 51 Vict., c. 28, s. 17).

<sup>2</sup> Cf. the Merchandise Marks Act, 1887 (50 & 51 Vict., c. 28, s. 19).

<sup>3</sup> The heading to s. 19, namely, "Transitory Provision" was repealed at the same time by the same Act, namely, the Indian Merchandise Marks and Sea Customs Acts Amendment Act, 1891 (IX of 1891), *infra*.

<sup>4</sup> Ss. 19 to 22 here printed were added by the Indian Merchandise Marks and Sea Customs Acts Amendment Act, 1891 (IX of 1891), s. 4, *infra*.

<sup>5</sup> Genl. Acts, Vol. II.

<sup>6</sup> For rules issued under these sections, see Genl. Stat. R. and O., Vol. II.

## (Supplemental Provisions.)

number of samples to be selected and tested and for the selection of the samples.

(2) With respect to any goods for the selection and testing of samples of which provision is not made in any rules for the time being in force under sub-section (1), the Court or officer of Customs, as the case may be, having occasion to ascertain the number, quantity, measure, gauge or weight of the goods, shall, by order in writing, determine the number of samples to be selected and tested and the manner in which the samples are to be selected.

(3) The average of the results of the testing in pursuance of rules under sub-section (1) or of an order under sub-section (2) shall be *prima facie* evidence of the number, quantity, measure, gauge or weight, as the case may be, of the goods.

(4) If a person having any claim to, or in relation to, any goods of which samples have been selected and tested in pursuance of rules under sub-section (1) or of an order under sub-section (2), desires that any further samples of the goods be selected and tested, they shall, on his written application and on the payment in advance by him to the Court or officer of Customs, as the case may be, of such sums for defraying the cost of the further selection and testing as the Court or officer may from time to time require, be selected and tested to such extent as may be permitted by rules to be made by the Governor General in Council in this behalf or as, in the case of goods with respect to which provision is not made in such rules, the Court or officer of Customs may determine in the circumstances to be reasonable, the samples being selected in manner prescribed under sub-section (1), or in sub-section (2), as the case may be.

(5) The average of the results of the testing referred to in sub-section (3) and of the further testing under sub-section (4) shall be conclusive proof of the number, quantity, measure, gauge or weight, as the case may be, of the goods.

(6) Rules under this section shall be made after previous publication.

<sup>1</sup> 21. An officer of the Government whose duty it is to take part in the enforcement of this Act shall not be compelled in any Court to say whence he got any information as to the commission of any offence against this Act.

Information  
as to com-  
mission of  
offence.

<sup>1</sup> 22. If any person, being within British India, abets the commission, without British India, of any act which, if committed in <sup>2</sup> British India, would,

Punishment  
of abetment  
in India of

<sup>1</sup> Ss. 21 and 22 were added by the Indian Merchandise Marks and Sea Customs Acts Amendment Act, 1891 (IX of 1891), s. 4, *infra*.

<sup>2</sup> Cf. s. 108A of the Indian Penal Code (Act XLV of 1860), Genl. Acts, Vol. I.



(Indian Succession Act, 1865.)

acts done out  
of India.

under this Act, or under any section of that part of Chapter XVIII of the  
<sup>1</sup> Indian Penal Code which relates to trade, property and other marks, be an  
 offence he may be tried for such abetment in any place in British India in  
 which he may be found, and be punished therefor with the punishment to  
 which he would be liable if he had himself committed in that place the act  
 which he abetted.

XLV of 1860.

ACT No. VI of 1889.<sup>2</sup>

[8th March, 1889.]

An Act to amend the <sup>3</sup> Indian Succession Act, 1865, the <sup>4</sup> Probate  
 and Administration Act, 1881, the <sup>5</sup> Court-fees Act, 1870,  
<sup>6</sup> \* \* \* and to make provision with respect to certain  
 other matters.

WHEREAS it is expedient to amend the <sup>3</sup> Indian Succession Act, 1865, the  
<sup>4</sup> Probate and Administration Act, 1881, the <sup>5</sup> Court-fees Act, 1870, \* \* \*  
 and to make provision with respect to certain other matters ; It is hereby  
 enacted as follows :—

X of 1865.

V of 1881.

VII of 1870.

Title, extent  
and com-  
mencement.

1. (1) This Act may be called the Probate and Administration Act,  
 1889.

(2) It applies to the whole of British India<sup>7</sup> \* \* \* \* ; and

(3) It shall come into force at once.

*Indian Succession Act, 1865.*Amendment  
of section 234,  
Act X, 1865.

2. After the 4th clause of the *explanation* to section 234 of the <sup>3</sup> Indian  
 Succession Act, 1865, the following shall be added, namely :—

X of 1865.

“5th, that the person to whom the grant was made has wilfully and  
 without reasonable cause omitted to exhibit an inventory or account in

<sup>1</sup> Genl. Acts, Vol. I.

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1888, Pt. V, p. 53 ; for Report of the Select Committee, see *ibid.*, 1889, Pt. IV, p. 39 and for Proceedings in Council, see *ibid.*, 1888, Pt. VI, pp. 90 and 136, and *ibid.*, 1889, pp. 20 and 45.

The whole Act, with the exception of s. 21, has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

The Act has also been declared to be in force in the Sonthal Parganas under s. 3 of the Sonthal Parganas Settlement Regulation (3 of 1872) as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), Ben. Code, Vol. I.

As being part of the Acts amended by it, the Act is in force in British Baluchistan, see British Baluchistan Laws Regulation, 1890 (1 of 1890), Bal. Code.

<sup>3</sup> Genl. Acts, Vol. I.

<sup>4</sup> Genl. Acts, Vol. III.

<sup>5</sup> Genl. Acts, Vol. II.

<sup>6</sup> The words “and the Stamp Act, 1879,” were repealed by the Indian Stamp Act, 1899 (II of 1899), Genl. Acts, Vol. V.

<sup>7</sup> The words “inclusive of Upper Burma, except the Shan States,” were repealed by the Fifth Schedule to the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

accordance with the provisions of Part XXXIV of this Act or has exhibited under that Part an inventory or account which is untrue in a material respect."

3. In section 244 of the same Act, for the words "and that the petitioner is the executor therein named" the following shall be substituted, namely :—

"the amount of assets which are likely to come to the petitioner's hands and

"that the petitioner is the executor named in the will ;"

4. For the last forty-two words of section 254 of the same Act the following shall be substituted, namely :—

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

5. For the last forty-five words of section 255 of the same Act the following shall be substituted, namely :—

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

6. In section 256 of the same Act, for the words "Every person to whom any grant of administration shall be committed" the words "Every person to whom any grant of letters of administration is committed" shall be substituted.

7. For section 277 of the same Act the following shall be substituted, namely :—

"277. (1) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the Court which granted the probate or letters may from time to time appoint, exhibit in that Court an inventory containing a full and true estimate of all the property in possession and all the credits, and also all the debts

Amendment  
of section  
214, Act X,  
1865.

Amendment  
of section  
255, Act X,  
1865.

Amendment  
of section  
256, Act X,  
1865.

Amendment  
of section  
256, Act X,  
1865.

Substitution  
of new section  
277,  
Act X, 1865.

Inventory  
and account.

(*Indian Succession Act, 1865. Probate and Administration Act, 1881.*)

owing by any person to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the grant or within such further time as the said Court may from time to time appoint, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

(2) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited.

(3) If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally omits to comply with the requisition, he shall be deemed to have committed an offence under section 176 of the <sup>1</sup> Indian Penal Code.

XLV of 1860.

(4) The exhibition of an intentionally false inventory or account under this section shall be deemed to be an offence under section 193 of that Code."

Amendment  
of section  
277 A, Act  
X, 1865.

8. In section 277 A<sup>2</sup> of the same Act, for the words "it is sought to obtain a grant" the words "a grant has been made", and for the words and figures "the person applying for administration after the first day of April, 1875," the word "administrator" shall be substituted.

Amendment  
of section  
283, Act X,  
1865.

9. (1) In section 283 of the same Act, for the words "the country in which he was domiciled" the words "British India" shall be substituted.

(2) [*Repeal of illustration to section 283.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

Addition to  
Act X, 1865.

10. To the same Act the following shall be added, namely :—

Surrender of  
revoked probate  
or letters of  
administration.

"333. (1) When a grant of probate or letters of administration is revoked or annulled under this Act, the person to whom the grant was made shall forthwith deliver up the probate or letters to the Court which made the grant.

(2) If such person wilfully and without reasonable cause omits so to deliver up the probate or letters, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment of either description for a term which may extend to three months, or with both."

<sup>3</sup>*Probate and Administration Act, 1881.*

Amendment  
of section 50,  
Act V, 1881.

11. After the 4th clause of the *explanation* to section 50 of the Probate and Administration Act, 1881, the following shall be added, namely :—

"5th, that the person to whom the grant was made has wilfully and

<sup>1</sup> Genl. Acts, Vol. I.

<sup>2</sup> This section has now been superseded by a new section, bearing the same number, which was inserted by the Probate and Administration Act, 1903 (8 of 1903), Genl. Acts, Vol. V. S. 8 of this Act is now therefore obsolete.

<sup>3</sup> Genl. Acts, Vol. III.

*(Probate and Administration Act, 1881.)*

without reasonable cause omitted to exhibit an inventory or account in accordance with the provisions of Chapter VII of this Act, or has exhibited under that Chapter an inventory or account which is untrue in a material respect."

12. For the portion of section 76 of the same Act beginning with the words "he having undertaken to administer the same" and ending with the words "within one year from the same date" the following shall be substituted, namely :—

Amendment  
of section 76,  
Act V, 1881.

"he having undertaken to administer the same and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

13. For the portion of section 77 of the same Act beginning with the words "he having undertaken to administer the same" and ending with the words "within one year from the same date" the following shall be substituted, namely :—

Amendment  
of section 77,  
Act V, 1881.

"he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may from time to time appoint, and also to render to this Court a true account of the said property and credits within one year from the same date or within such further time as the Court may from time to time appoint."

14. For section 90 of the same Act the following shall be substituted, namely :—

Substitution  
of new section  
for section 90,  
Act V, 1881.

"90. (1) An executor or administrator has, subject to the provisions of this section, power to dispose, as he thinks fit, of all or any of the property for the time being vested in him under section 4.

Power of executor or administrator to dispose of property.

(2) The power of an executor to dispose of immoveable property so vested in him is subject to any restriction which may be imposed in this behalf by the will appointing him unless probate has been granted to him and the Court which granted the probate permits him by an order in writing, notwithstanding the restriction, to dispose of any immoveable property specified in the order in a manner permitted by the order.

(*Probate and Administration Act, 1881.*)

(3) An administrator may not, without the previous permission of the Court by which the letters of administration were granted,—

(a) mortgage, charge or transfer by sale, gift, exchange or otherwise any immoveable property for the time being vested in him under section 4, or

(b) lease any such property for a term exceeding five years.

(4) A disposal of property by an executor or administrator in contravention of sub-section (2) or sub-section (3), as the case may be, is voidable at the instance of any other person interested in the property.

(5) Before any probate or letters of administration is or are granted under this Act there shall be endorsed thereon or annexed thereto a copy of sub-sections (1), (2) and (4), or of sub-sections (1), (3) and (4), as the case may be.

(6) A probate or letters of administration shall not be rendered invalid by reason of the endorsement or annexure required by the last foregoing sub-section not having been made thereon or attached thereto, nor shall the absence of such an endorsement or annexure authorise an executor or administrator to act otherwise than in accordance with the provisions of this section.”

15. For section 98 of the same Act the following shall be substituted, namely :—

Substitution  
of new section  
for section 98,  
Act V, 1881.

Inventory  
and account.

“ 98. (1) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the Court which granted the probate or letters may from time to time appoint, exhibit in that Court an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the grant or within such further time as the said Court may from time to time appoint, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

(2) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited.

(3) If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally omits to comply with the requisition, he shall be deemed to have committed an offence under section 176 of the <sup>1</sup> Indian Penal Code.

XLV of 1960;

(*Probate and Administration Act, 1888. Miscellaneous.*)

(4) The exhibition of an intentionally false inventory or account under this section shall be deemed to be an offence under section 193 of that Code."

16. In section 99 of the same Act, for the words "it is sought to obtain a grant" the words "a grant has been made," and for the words "the person applying for administration" the word "administrator," shall be substituted. Amendment of section 99, Act V, 1881.

17. To the same Act the following shall be added, namely :—

Addition to Act V, 1881.

"157. (1) When a grant of probate or letters of administration is revoked or annulled under this Act, the person to whom the grant was made shall forthwith deliver up the probate or letters to the Court which made the grant. Surrender of revoked probate or letters of administration.

(2) If such person wilfully and without sufficient cause omits so to deliver up the probate or letters, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment which may extend to three months, or with both."

<sup>1</sup> *Court-fees Act, 1870,* \* \* \* \*

18. (1) [*Repeal of article 16 (Sch. II), Act VII of 1870.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).* Amendment of Act VII, 1870.

(2) In article 6 of the Second Schedule to the <sup>1</sup> Court-fees Act, 1870, for the words "Bail-bond or other instrument of obligation not otherwise provided for by this Act, when given by the direction of any Court or executive authority," the following words shall be substituted, namely :—

"Bail-bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, 1882,<sup>3</sup> or the Code of Civil Procedure."<sup>4</sup>

**X of 1882.**  
**XIV of 1882.**

(3), (4) [*Amending the Indian Stamp Act, 1879.*] *Rep. by the Indian Stamp Act, 1899.*

#### *Miscellaneous.*

**V of 1881.**

19. Notwithstanding anything in section 90 of the <sup>5</sup> Probate and Administration Act, 1881, a disposal of property by an executor or administrator who was appointed before the commencement of this Act, and to whom the provisions of that section were applicable, shall not be void by reason only that the consent of the Court to the disposal of the property was not obtained Validation of acts under grants of administration already made.

<sup>1</sup> Genl. Acts, Vol. II.

<sup>2</sup> The words "and Indian Stamp Act, 1879" in the heading were repealed by the Indian Stamp Act, 1899, Genl. Acts, Vol. V.

<sup>3</sup> See now the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

<sup>4</sup> See now the Code of Civil Procedure, 1908 (Act 5 of 1908), Genl. Acts, Vol. VI.

<sup>5</sup> Genl. Acts, Vol. III.

(Miscellaneous.)

Succession Certificate.

[1889 : Act VII.

20. [*Recovery of penalties and forfeiture under Act VII, 1870.*] *Rep. by the* <sup>1</sup> *Court-fees (Amendment) Act, 1899 (XI of 1899), s. 4.*

21. [*Repeal of part of section 7 (3), Bengal Act VII of 1880.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

## THE SUCCESSION CERTIFICATE ACT, 1889.

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## THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

## THE SECOND SCHEDULE.—FORMS OF CERTIFICATE AND EXTENDED CERTIFICATE.

ACT No. VII OF 1889.<sup>1</sup>

[8th March, 1889.]

An Act to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons.

WHEREAS it is expedient to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons; It is hereby enacted as follows:—

1. (1) This Act may be called the Succession Certificate Act, 1889.

(2) It shall come into force on the first day of May, 1889; and

(3) It extends to the whole of British India<sup>2</sup> \* \* \* \* \*

<sup>3</sup> (4) But a certificate shall not be granted thereunder with respect to any debt or security to which a right can be established by probate or letters of

Title, commencement, extent and application.

<sup>1</sup> For Statement of Objects and Reasons, see *Gazette of India*, 1888, Pt. V, p. 60; for Report of the Select Committee, see *ibid*, 1889, Pt. V, p. 45 and for Proceedings in Council, see *ibid*, 1888, Pt. VI, pp. 92 and 136, and *ibid*, 1889, Pt. VI, p. 48.

For Civil Rules of Practice made by the High Court of Madras under this Act, the Code of Civil Procedure and certain other Acts, for observance by the Subordinate Civil Courts of that Presidency, see *Fort St. George Gazette*, 1905, Supplement, p. 1.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

The Act has also been declared to be in force in British Baluchistan by the British Baluchistan Laws Regulation, 1890 (1 of 1890), s. 3, Bal. Code, and in the Angul District by the Angul District Regulation, 1894 (1 of 1894), s. 3., Ben. Code, Vol. I.

It has been declared in force in the Sonthal Parganas by notification under s. 3 of the Sonthal Parganas Settlement Regulation (3 of 1872) as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), Ben. Code, Vol. I.

<sup>2</sup> The words "inclusive of Upper Burma, except the Shan States," were repealed by the fifth schedule to the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

<sup>3</sup> Nothing in this sub-section shall be deemed to prevent the grant of a certificate to any person claiming to be entitled to the effects of a deceased Native Christian, or to any part thereof, with respect to any debt or security, by reason that a right thereto can be established by letters of administration under the Indian Succession Act, 1865, *vide* the Native Christian Administration of Estates Act, 1901 (7 of 1901), s. 5, Genl. Acts, Vol. V.



administration under the <sup>1</sup> Indian Succession Act, 1865, or by probate of a <sup>2</sup> will to which the <sup>3</sup> Hindu Wills Act, 1870, applies, or by letters of administration with a copy of such a will annexed. X of 1865.  
XXI of 1870

Repeal.

2. (1) The enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.

(2) But nothing in this Act shall affect any certificate granted before the commencement of this Act under <sup>3</sup> Act XXVII of 1860 or any enactment repealed by that Act.

(3) Any enactment except this Act and section 152 of the <sup>4</sup> Probate and Administration Act, 1881, or any document, referring to any enactment repealed by this Act, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof. V of 1881.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context, —

(1) “ District Court ”, subject to the other provisions of this Act and to the provisions of proviso (b) to section 23 of the <sup>5</sup> Punjab Courts Act, 1884, and of any other like enactment for the time being in force, means a Court presided over by a District Judge : and XVIII of 1884.

(2) “ Security ” means—

- (a) any promissory note, debenture, stock or other security of the Government of India ;
- (b) any bond, debenture, or annuity charged by the Imperial Parliament on the revenues of India ;
- (c) any stock or debenture of, or share in, a company or other incorporated institution ;
- (d) any debenture or other security for money issued by, or on behalf of, a local authority ;
- (e) any other security which the Governor General in Council may, by notification in the Gazette of India, declare to be a security for purposes of this Act.

Proof of  
representative  
title a con-  
dition prece-  
dent to

4. (1) No Court shall—

- (a) pass a decree against a debtor of a deceased person for payment of his debt to a person claiming to be entitled to the effects of the deceased person or any part thereof, or

<sup>1</sup> Genl. Acts, Vol. I.

<sup>2</sup> Genl. Acts, Vol. II.

<sup>3</sup> Repealed by this Act.

<sup>4</sup> Genl. Acts, Vol. III.

<sup>5</sup> Panj. and N.-W. Code.

- (b) proceed, upon an application of a person claiming to be so entitled, to execute against such a debtor a decree or order for the payment of his debt,

recovery through the Courts of debts from debtors of deceased persons.

except on the production, by the person so claiming, of—

- (i) a probate or letters of administration evidencing the grant to him of administration to the estate of the deceased, or
- (ii) a certificate granted under section 36 or section 37 of the 'Administrator General's Act, 1874, and having the debt mentioned therein, or
- (iii) a certificate granted under this Act and having the debt specified therein, or
- (iv) a certificate granted under Act <sup>2</sup> XXVII of 1860 or an enactment repealed by that Act, or
- (v) a certificate granted under the Regulation of the Bombay Code <sup>3</sup> No. VIII of 1827 and, if granted after the commencement of this Act, having the debt specified therein.

(2) The word "debt" in sub-section (1) includes any debt except rent, revenue or profits payable in respect of land used for agricultural purposes.

5. The District Court within the jurisdiction of which the deceased ordinarily resided at the time of his death, or if at that time he had no fixed place of residence then within the jurisdiction of which any part of the property of the deceased may be found, may grant a certificate under this Act.

Court having jurisdiction to grant certificates.

6. (1) Application for such a certificate must be made to the District Court by a petition signed and verified by or on behalf of the applicant in the manner prescribed by the <sup>1</sup> Code of Civil Procedure for the signing and verification of a plaint by or on behalf of a plaintiff and setting forth the following particulars, namely :—

Application for certificate.

- (a) the time of the death of the deceased ;
- (b) the ordinary residence of the deceased at the time of his death and, if such residence was not within the local limits of the jurisdiction of the Court to which the application is made, then the property of the deceased within those limits ;
- (c) the family or other near relatives of the deceased and their respective residences ;
- (d) the right in which the petitioner claims ;
- (e) the absence of any impediment under section 1, sub-section (4), or

<sup>1</sup> Genl. Acts, Vol. II.

<sup>2</sup> Repealed by this Act.

<sup>3</sup> Bom. Code, Vol. I.

<sup>4</sup> See now the Code of Civil Procedure, 1908 (Act 5 of 1908), Genl. Acts, Vol. VI.

under any other provision of this Act or any other enactment, to the grant of the certificate or to the validity thereof if it were granted ; and

(f) the debts and securities in respect of which the certificate is applied for.

(2) If the petition contains any averment which the person verifying it knows or believes to be false, or does not believe to be true, that person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

Procedure on  
application.

7. (1) If the District Court is satisfied that there is ground for entertaining the application, it shall fix a day for the hearing thereof and cause notice <sup>1</sup> of the application and of the day fixed for the hearing—

(a) to be served on any person to whom, in the opinion of the Court, special notice of the application should be given, and

(b) to be posted on some conspicuous part of the court-house and published in such other manner, if any, as the Court, subject to any rules made by the High Court, in this behalf, thinks fit,

and upon the day fixed, or as soon thereafter as may be practicable, shall proceed to decide in a summary manner the right to the certificate.

(2) When the Court decides the right thereto to belong to the applicant it shall make an order for the grant of the certificate to him.

(3) If the Court cannot decide the right to the certificate without determining questions of law or fact which seem to it to be too intricate and difficult for determination in a summary proceeding, it may nevertheless grant a certificate to the applicant if he appears to be the person having *prima facie* the best title thereto.

(4) When there are more applicants than one for a certificate and it appears to the Court that more than one of such applicants are interested in the estate of the deceased, the Court may, in deciding to whom the certificate is to be granted, have regard to the extent of interest, and the fitness in other respects, of the applicants.

Contents of  
certificate.

8. When the District Court grants a certificate, it shall therein specify the debts and securities set forth in the application for the certificate and may thereby empower the person to whom the certificate is granted—

(a) to receive interest or dividends on, or

(b) to negotiate or transfer, or

<sup>1</sup> For form of notice in—

Bombay, see Bom. Govt. Gazette, 1890, Pt. I, p. 336.

United Provinces of Agra and Oudh, see U. P. List of Local R. and O., Vol. I.

(c) both to receive interest or dividends on, and to negotiate or transfer the securities or any of them.

9. (1) The District Court shall in any case in which it proposes to proceed under section 7, sub-section (3) or sub-section (4), and may, in any other case, require, as a condition precedent to the granting of a certificate, that the person to whom it proposes to make the grant shall give to the Judge of the Court, to ensure for the benefit of the Judge for the time being, a bond with one or more surety or sureties, or other sufficient security, for rendering an account of debts and securities received by him and for indemnity of persons who may be entitled to the whole or any part of those debts and securities.

Requisition  
of security  
from grantee  
of certificate.

(2) The Court may, on application made by petition and on cause shown to its satisfaction, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise as the Court thinks fit, assign the bond or other security to some proper person, and that person shall thereupon be entitled to sue thereon in his own name as if it had been originally given to him instead of to the Judge of the Court, and to recover, as trustee for all persons interested, such amount as may be recoverable thereunder.

10. (1) A District Court may from time to time, on the application of the holder of a certificate under this Act, extend the certificate to any debt or security not originally specified therein, and every such extension shall have the same effect as if the debt or security to which the certificate is extended had been originally specified therein.

Extension of  
certificate.

(2) Upon the extension of a certificate, powers with respect to the receiving of interest or dividends on, or the negotiation or transfer of, any security to which the certificate has been extended may be conferred, and a bond or further bond or other security for the purposes mentioned in the last foregoing section may be required, in the same manner as upon the original grant of a certificate.

11. Certificates shall be granted and extensions of certificates shall be made, as nearly as circumstances admit, in the forms set forth in the second schedule.

Forms of  
certificate  
and extended  
certificate.

12. Where a District Court has not conferred on the holder of a certificate any power with respect to a security specified in the certificate, or has only empowered him to receive interest or dividends on, or to negotiate or transfer, the security, the Court may, on application made by petition and on cause shown to its satisfaction, amend the certificate by conferring any of the powers mentioned in section 8, or by substituting any one for any other of those powers.

Amendment  
of certificate  
in respect of  
powers as to  
securities.

Amendment  
of Act VII,  
1870.

13. (1) For articles 11 and 12 of the first schedule to the <sup>1</sup> Court-fees Act, VII of 1870, 1870, the following shall be substituted, namely :—

Number.		Proper fee.
"11. Probate of a will or letters of administration with or without will annexed.	If the amount or value of the property in respect of which the grant of probate or letters is made exceeds one thousand rupees.	Two per centum on such amount or value, provided that when after the grant of a certificate under the Succession Certificate Act, 1889, or any enactment repealed by that Act, or under the Regulation of the Bombay Code No. VIII of 1827, <sup>2</sup> in respect of any property included in an estate, a grant of probate or letters of administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant.
"12. Certificate under the Succession Certificate Act, 1889.	In any case . . . .	Two per centum on the amount or value of any debt or security specified in the certificate under section 8 of the Act, and three per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act. NOTE.—(1) The amount of a debt is its amount, including interest, on the day on which the inclusion of the debt in the certificate is applied for, so far as such amount can be ascertained. (2) Whether or not any power with respect to a security specified in a certificate has been conferred under the Act, and where such a power has been so conferred, whether the power is for the receiving of interest or dividends on, or for the negotiation or transfer of, the security, or for both purposes, the value of the security is its market-value on the day on which the inclusion of the security in the certificate is applied for, so far as such value can be ascertained.
"12 A. Certificate under the Regulation of the Bombay Code No. VIII of 1827. <sup>2</sup>		(1) As regards debts and securities, the same fee as would be payable in respect of a certificate under the Succession Certificate Act, 1889, or in respect of an extension of such a certificate, as the case may be, and (2) as regards other property in respect of which the certificate is granted, two per centum on so much of the amount or value of such property as exceeds one thousand rupees."

VII of 1889.

<sup>1</sup> Genl. Acts, Vol. II.

<sup>2</sup> Bom. Code, Vol. I.

VII of 1870. (2) In the <sup>1</sup> Court-fees Act, 1870, section 19, clause viii, for the words and figures "and certificate mentioned in the first schedule to this Act annexed, No. 12," the words and figures "and, save as regards debts and securities, a certificate under <sup>2</sup> Bombay Regulation VIII of 1827" shall be substituted.

VII of 1870. 14. (1) Every application for a certificate or for the extension of a certificate must be accompanied by a deposit of a sum equal to the fee payable under the first schedule to the <sup>1</sup> Court-fees Act, 1870, in respect of the certificate or extension applied for. Mode of collecting court-fees on certificates.

(2) If the application is allowed, the sum deposited by the applicant shall be expended, under the direction of the Court, in the purchase of the stamp to be used for denoting the fee payable as aforesaid.

(3) Any sum received under sub-section (1) and not expended under sub-section (2) shall be refunded to the person who deposited it.

15. A certificate under this Act shall have effect throughout the whole of British India. Local extent of certificate.

16. Subject to the provisions of this Act, the certificate of the District Court shall, with respect to the debts and securities specified therein, be conclusive as against the persons owing such debts or liable on such securities, and shall, notwithstanding any contravention of section 1, sub-section (4), or other defect, afford full indemnity to all such persons as regards all payments made, or dealings had, in good faith, in respect of such debts or securities to or with the person to whom the certificate was granted. Effect of certificate.

VII of 1870. 17. Where a certificate in the form, as nearly as circumstances admit, of the second schedule has been granted to a resident within a foreign State by the British representative accredited to the State, or where a certificate so granted has been extended in such form by such representative, the certificate shall, when stamped in accordance with the provisions of the <sup>1</sup> Court-fees Act, 1870, with respect to certificates under this Act, have the same effect in British India as a certificate granted or extended under this Act. Effect of certificate granted or extended by British representative in foreign State.

18. A certificate granted under this Act may be revoked for any of the following causes, namely:— Revocation of certificate.

(a) that the proceedings to obtain the certificate were defective in substance;

(b) that the certificate was obtained fraudulently by the making of a

<sup>1</sup> Genl. Acts, Vol. II.

<sup>2</sup> Bom. Code, Vol. I.

false suggestion, or by the concealment from the Court of something material to the case ;

- (c) that the certificate was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant thereof, though such allegation was made in ignorance or inadvertently ;
- (d) that the certificate has become useless and inoperative through circumstances ;
- (e) that a decree or order made by a competent Court in a suit or other proceeding with respect to effects comprising debts or securities specified in the certificate renders it proper that the certificate should be revoked.

Appeal.

19. (1) Subject to the other provisions of this Act, an appeal shall lie to the High Court from an order of a District Court granting, refusing or revoking a certificate under this Act, and the High Court may, if it thinks fit, by its order on the appeal, declare the person to whom the certificate should be granted and direct the District Court, on application being made therefor, to grant it accordingly, in supersession of the certificate, if any, already granted.

(2) An appeal under sub-section (1) must be preferred within the time allowed for an appeal under the Code of Civil Procedure.<sup>1</sup>

XIV of 1882.

(3) Subject to the provisions of sub-section (1) and of <sup>2</sup> Chapters XLVI and XLVII of the Code of Civil Procedure as applied by section 647 of that Code, an order of a District Court under this Act shall be final.

Effect on certificate of previous certificate, probate or letters of administration.

20. Save as provided by this Act, a certificate granted thereunder in respect of any of the effects of a deceased person shall be invalid if there has been a previous grant of such a certificate or of probate or letters of administration in respect of the estate of the deceased person and if such previous grant is in force.

Effect on certificate of subsequent probate or letters of administration.

21. (1) A grant of probate or letters of administration under the <sup>2</sup> Probate and Administration Act, 1881, in respect of an estate, shall be deemed to supersede any certificate previously granted under this Act in respect of any debts or securities included in the estate.

V of 1881.

(2) When at the time of the grant of the probate or letters any suit or other proceeding instituted by the holder of the certificate regarding any such debt or security is pending, the person to whom the grant is made shall, on applying to the Court in which the

<sup>1</sup> See now the Code of Civil Procedure, 1908 (Act 5 of 1908), Genl. Acts, Vol. VI.

<sup>2</sup> See *ibid.*, cl. 113, Order XLVI, rules 1 to 5, of the First Schedule, and cl. 115 and cl. 114 and Order XLVII and cl. 141, respectively, Genl. Acts, Vol. III.

suit or proceeding is pending, be entitled to take the place of the holder of the certificate in the suit or proceeding.

22. Where a certificate under this Act has been superseded or is invalid by reason of the certificate having been revoked under section 18, or by reason of the grant of a certificate to a person named in an appellate order under section 19, or by reason of a certificate having been previously granted, or by reason of a grant of probate or letters of administration, or for any other cause, all payments made or dealings had, as regards debts and securities specified in the superseded or invalid certificate, to or with the holder of that certificate in ignorance of its supersession or invalidity, shall be held good against claims under any other certificate or under the probate or letters of administration.

Validation of certain payments made in good faith to holder of invalid certificate.

23. (1) Where a certificate has been granted under this Act or <sup>1</sup> Act XXVII of 1860, or a grant of probate or letters of administration has been made, a curator appointed under <sup>2</sup> Act XIX of 1841 shall not exercise any authority lawfully belonging to the holder of the certificate or to the executor or administrator.

Prohibition of exercise of certain powers by curators.

(2) But persons who have paid debts or rents to a curator authorised by a Court to receive them shall be indemnified, and the curator shall be responsible for the payment thereof to the person who has obtained the certificate, probate or letters of administration, as the case may be.

24. Any probate or letters of administration granted before the first day of April, 1881, by any Supreme or High Court of Judicature, or by the Court of a Recorder in Burma, in any case in which the deceased person was not a British subject within the meaning of that expression as used in the charters of the Supreme Courts of Judicature, and in which any assets belonging to him were at the time of his death within the local limits of the jurisdiction of the Court, shall, for the purpose of the recovery of debts, the protection of persons paying debts, and the negotiation or transfer of securities included in the estate of the deceased, be deemed to have and to have had the effect which a grant of probate or letters of administration has under the <sup>3</sup> Indian Succession Act, 1865 :

Effect of certain probates and letters.

X of 1865.

Provided that nothing in this section shall be construed to validate any disposal of property by an executor or administrator which has before the commencement of this Act been declared by any competent Court to be invalid.

<sup>1</sup> Repealed by this Act.

<sup>2</sup> The Succession (Property Protection) Act, 1841, Genl. Acts, Vol. I.

<sup>3</sup> Genl. Acts, Vol. I.



Effect of  
decisions  
under this  
Act, and lia-  
bility of  
holder of  
certificate  
thereund r.

Investiture  
of inferior  
Courts with  
jurisdiction  
of District  
Court for  
purposes of  
this Act.

25. No decision under this Act upon any question of right between any parties shall be held to bar the trial of the same question in any suit or in any other proceeding between the same parties, and nothing in this Act shall be construed to affect the liability of any person who may receive the whole or any part of any debt or security, or any interest or dividend on any security to account therefor to the person lawfully entitled thereto.

26. (1) The Local Government may, by notification in the official Gazette, invest any Court inferior in grade to a District Court with the functions of a District Court under this Act, and may cancel or vary any such notification.<sup>1</sup>

(2) Any inferior Court so invested shall, within the local limits of its jurisdiction, have concurrent jurisdiction with the District Court in the exercise of all the powers conferred by this Act upon the District Court, and the provisions of this Act relating to the District Court shall apply to such an inferior Court as if it were a District Court :

Provided that an appeal from any such order of an inferior Court as is mentioned in sub-section (1) of section 19 shall lie to the District Court, and not to the High Court, and that the District Court may, if it thinks fit, by its order on the appeal, make any such declaration and direction as that sub-section authorises the High Court to make by its order on an appeal from an order of a District Court.

(3) An order of a District Court on an appeal from an order of an inferior Court under the last foregoing sub-section shall, subject to the provisions of Chapters XLVI and XLVII of the Code of Civil Procedure<sup>2</sup> as applied by section 647 of that Code, be final. XIV of 1882.

(4) The District Court may withdraw any proceedings under this Act from an inferior Court, and may either itself dispose of them or transfer them to another such Court established within the local limits of the jurisdiction of the District Court and having authority to dispose of the proceedings.

(5) A notification under sub-section (1) may specify any inferior Court specially or any class of such Courts in any local area.

(6) Any Civil Court which for any of the purposes of any enactment is subordinate to, or subject to the control of, a District Court shall for the

<sup>1</sup> For notifications issued under this sub-section for—

(1) Assam, *see* Assam Local R. & O.

(2) Bengal, in Ben. Local Stat. R. & O., Vol. II.

(3) Bombay, *see* Bom. Local R. & O., Vol. I.

(4) Central Provinces, *see* C. Provs. Local R. & O.

(5) Coorg, *see* Coorg List of Local R. & O.

(6) Madras, *see* Mad. List of Local R. & O., Vol. I.

(7) United Provinces of Agra and Oudh, *see* U. P. List of Local R. & O., Vol. I.

<sup>2</sup> *See* now Act V of 1908, Genl. Acts, Vol. VI, Orders XLVI and XLVII in the First Schedule and cl. 141.

*(The First Schedule.—Enactments Repealed.)*

purposes of this section be deemed to be a Court inferior in grade to a District Court.

27. (1) When a certificate under this Act has been superseded or is in- Surrender of valid from any of the causes mentioned in section 22, the holder thereof shall, superseded and invalid on the requisition of the Court which granted it, deliver it up to that Court. certificates.

(2) If he wilfully and without reasonable cause omits so to deliver it up, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to three months, or with both.

28.<sup>1</sup> Notwithstanding anything in the Regulation of the Bombay Code, Provisions with respect to certificates under Bombay Regulation VIII of 1827. <sup>2</sup> No. VIII of 1827, the provisions of section 3, section 6, sub-section (1), clause (f), and sections 8, 9, 10, 11, 12, 14, 16, 18, 19, 25, 26 and 27 of this Act with respect to certificates under this Act and applications therefor, and of section 98 of the <sup>3</sup> Probate and Administration Act, 1881, with respect to the exhibition of inventories and accounts by executors and administrators shall, so far as they can be made applicable, apply, respectively, to certificates granted under that Regulation, and applications made for certificates thereunder, after the commencement of this Act, and to the exhibition of inventories and accounts by the holders of such certificates so granted.

V of 1881.

## THE FIRST SCHEDULE.

## ENACTMENTS REPEALED.

*(See section 2.)*

Number and year.	Subject or title.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>		
XXVII of 1860 . . .	Collection of debts on successions.	So much as has not been repealed.
*XIV of 1869 . . .	Bombay Civil Courts Act, 1869.	In section 16, from and inclusive of the words and figures "Bombay Regulation VIII of 1827" down to and inclusive of the words "representatives of deceased persons and."

<sup>1</sup> For notification issued under this section in conjunction with s. 26, see Bom. Local R. & O., Vol. I.

<sup>2</sup> Bom. Code, Vol. I.

<sup>3</sup> Genl. Acts, Vol. III.

<sup>4</sup> Bom. Code, Vol. I.

(The First Schedule.—Enactments Repealed. The Second Schedule.—Forms of Certificate and Extended Certificate.)

THE FIRST SCHEDULE—concluded.

Number and year.	Subject or title.	Extent of repeal.
<i>Acts of the Governor General in Council—concluded.</i>		
<sup>1</sup> XV of 1874	Laws Local Extent Act, 1874.	So much as relates to Act XXVII of 1860.
<sup>2</sup> XIII of 1879	Oudh Civil Courts Act, 1879.	Section 25, clause (3), relating to applications for certificates under Act XXVII of 1860.
<sup>3</sup> V of 1881	Probate and Administration Act, 1881.	Sections 151 and 153.
<sup>4</sup> XVIII of 1884	Punjab Courts Act, 1884.	Section 29, sub-section (1), clause (a).
<sup>5</sup> XII of 1887	Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.	Section 23, sub-section (2), clause (c).

*Act of the Lieutenant-Governor of Bengal in Council.*

<sup>6</sup> VII of 1880	Public Demands Recovery Act, 1880.	In section 7, clause (3), the words "and the note to paragraph 12 of Schedule I."
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THE SECOND SCHEDULE.

FORMS OF CERTIFICATE AND EXTENDED CERTIFICATE.

(See section 11.)

In the Court of

To A. E.

Whereas you applied on the \_\_\_\_\_ day of \_\_\_\_\_ for a certificate under the Succession Certificate Act, 1889, in respect of the following debts and securities, namely :—

*Debts.*

Serial number.	Name of debtor.	Amount of debt, including interest*, on date of application for certificate.	Description and date of instrument, if any, by which the debt is secured.

<sup>1</sup> Genl. Acts, Vol. II.

<sup>2</sup> U. P. Code, Vol. I.

<sup>3</sup> Genl. Acts, Vol. III.

<sup>4</sup> Punj. & N. W. Code.

<sup>5</sup> E. B. & A. Code, Vol. I.

<sup>6</sup> Since entirely repealed by the Public Demands Recovery Act, 1895 (Ben. Act 1 of 1895), Ben. Code, Vol. IV.

(The Second Schedule.—Forms of Certificate and Extended Certificate.)  
Securities.

Serial number.	DESCRIPTION.			Market-value of security on date of application for certificate.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This certificate is accordingly granted to you and empowers you to collect those debts [and] [to receive] [interest] [dividends] [on] [to negotiate] [to transfer] [those securities].

Dated this

day of

District Judge.

In the Court of

On the application of *A. B.* made to me on the                      day of  
, I hereby extend this certificate to the following debts  
and securities, namely :—

*Debts.*

Serial number.	Name of debtor.	Amount of debt, including interest, on date of application for extension.	Description and date of instrument, if any, by which the debt is secured.

*Securities.*

Serial number.	DESCRIPTION.			Market-value of security on date of application for extension.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount of par value of security.	

This extension empowers *A. B.* to collect those debts [and] [to receive] [interest] [dividends] [on] [to negotiate] [to transfer] [those securities].

Dated this

day

District Judge.

ACT No. VIII OF 1889.<sup>1</sup>

[22nd March, 1889.]

An Act to amend the <sup>2</sup> Sea Customs Act, 1878 <sup>3</sup> \* \* \*.

WHEREAS it is expedient to amend the <sup>2</sup> Sea Customs Act, 1878,<sup>3</sup> \* \* \* VIII of 1878.  
 \* \* ; It is hereby enacted as follows :—

<sup>2</sup>Sea Customs Act, 1878.

Amendment  
of section 37,  
Act VIII,  
1878.

1. For the provisos to section 37 of the <sup>2</sup> Sea Customs Act, 1878, the following proviso shall be substituted, namely :—

“ Provided that, if such goods are warehoused under this Act, the rate and valuation ( if any ) applicable thereto shall be the rate and valuation in force on the date on which application is made to clear such goods from the warehouse for home-consumption.”

Amendment  
of section  
11, Act,  
VIII, 1878.

2. In section 115 of the same Act, for the words and figures “ the second proviso to section 37 ” the words “ such alteration ” shall be substituted.

3—5. [Amendment of Act XI, 1882.] Rep. by the Indian Tariff Act, 1894 (VIII of 1894).

## THE CANTONMENTS ACT, 1889.

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<sup>1</sup> Short title, “ The Sea Customs Act (1878) Amendment Act, 1889,” see the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1889, Pt. V, p. 2; for Report of the Select Committee, see *ibid*, p. 37 and for Proceedings in Council, see *ibid*, Pt. VI, pp. 6, 14 and 60.

The Act is in force in Upper Burma (except the Shan States) as being a portion of the original Act 8 of 1878, declared in force there by the Burma Laws Act, 1898 ( 13 of 1898 ), Bur. Code.

<sup>2</sup> Genl. Acts, Vol. III.

<sup>3</sup> The words “ and the Indian Tariff Act, 1882,” in the Title and Preamble and the heading “ Indian Tariff Act, 1882,” to section 3, have been omitted as the Indian Tariff Act, 1882 (11 of 1882) and ss. 3 to 5 of this Act have been repealed by the Indian Tariff Act, 1894 ( 8 of 1894 ), Genl. Acts, Vol. IV.

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## 18. Extension of Act XX of 1856 to certain cantonments.

## 19. Restriction of power of taxation in cantonments in which Act XX of 1856 is in force.

## 20. Power to prohibit or exempt from taxation.

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## THE SCHEDULE—ENACTMENTS REPEALED.

ACT No. XIII OF 1889.<sup>1</sup>

[11th October, 1889.]

## An Act to amend the law relating to Cantonments.

WHEREAS it is expedient to amend the law relating to cantonments; It is hereby enacted as follows :—

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1888, Pt. V, p. 100; for Report of the Select Committee, see *ibid*, p. 183, and for Proceedings in Council, see *ibid*, Pt. VI, pp. 108 and 136, and *ibid*, 1889, Pt. VI, pp. 139 and 165.

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

The Act has been applied to British Baluchistan by Reg. 1 of 1890, s. 3, as amended by the British Baluchistan Forest Regulation, 1890 (5 of 1890), Bal. Code; it has been applied to the Agency Territories by the Baluchistan Agency Laws Law, 1890, *ibid*, and by Notification No. 94-E.A., dated 24th January, 1898, see Gazette of India, 1898, Pt. I, p. 31.

It has been applied with modifications, by notifications under ss. 4 and 5 of the Foreign Jurisdiction and Extradition Act, 1879 (21 of 1879), Genl. Acts, Vol. III, to the following British Cantonments in Native States, namely :—

- |   |   |
|---|---|
| (1) Sikandarabad<br>inclusive of<br>Bolaram<br>and Aurung-<br>abad. | } (Hyderabad State), see Notification No. 1019-I.B., dated 11th March, 1904, Gazette of India, 1904, Pt. I, p. 204; |
|   |   |
| (2) Mhow (Indore State)   | } see Macpherson's Lists of British Enactments in force in Native States, Central India;                            |
| (3) Neemuch (Gwalior State)   |   |
| (4) Nowgong (Chhatarpur in Bur-<br>delkhand).                       |   |
| (5) Disah (Palampur State)  | } see Macpherson's Lists of British Enactments in force in Native States, Western India.                            |
| (6) Bhuj (Cutch State)  |   |
| (7) Baroda (Baroda State)   |   |

## CHAPTER I.

## PRELIMINARY.

1. (1) This Act may be called the Cantonments Act, 1889. Title, extent  
and com-  
mencement.
- (2) It extends to the whole of British India ; 1 \* \* \* and
- (3) It shall come into force on such day <sup>2</sup> as the Governor General in Council, by notification in the Gazette of India, appoints in this behalf.
2. (1) On and from that day the enactments specified in the schedule are Repeal.  
repealed to the extent mentioned in the third column thereof :—
- (2) But all orders, declarations, rules and regulations made, directions, licenses and permits given, taxes imposed and notifications published under any enactment repealed by this Act or under any enactment repealed by any enactment repealed by this Act, and all limits defined as the local limits of a cantonment with the approval of the Governor General in Council or a Local Government before the passing of this Act, shall be deemed to have been respectively made, given, imposed and published, and to have been defined, under this Act.
- (3) Any enactment or document referring to any enactment repealed by this Act, or to any enactment repealed by any enactment repealed by this Act, or to any regulation of the Bengal, Madras or Bombay Code respecting the fixing of the local limits of cantonments and military bazars, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.
3. (1) In this Act and in the rules thereunder, unless there is something Interpreta-  
tion.  
repugnant in the subject or context,—
- (a) “ officer ” means—
- (i) a person who, being an officer within the meaning of the Army Act,\*<sup>3</sup> is commissioned and in pay as an officer doing military duty with Her Majesty’s regular forces as defined in that Act or as an officer doing such duty in any arm, branch or part of those forces, and
- (ii) a person doing military duty as a warrant officer with those forces or with any arm, branch or part thereof, whether he is or is not an officer within the meaning of the Army Act :\*<sup>3</sup>

44 & 45 Vict.,  
c. 58.

<sup>1</sup> The words “ inclusive of Upper Burma,” were repealed by the Fifth Schedule to the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

<sup>2</sup> The 1st January, 1890, see Genl. Stat. R. & O., Vol. II.

<sup>3</sup> The figures “ 1881 ” were repealed by the Repealing and Amending Act, 1891 (12 of 1891). For the Army Act, see Coll. Stats. Ind., Vol. II.



(Chap. II.—Cantonments and Cantonment Authorities, Courts and Police.)

- (b) "soldier" means a person who is a soldier of Her Majesty's regular forces within the meaning of the Army Act\*<sup>1</sup> and is not an officer within the meaning of this Act :
  - (c) "spirituous liquor" means any fermented liquor, any wine, any alcoholic liquid obtained by distillation, and the sap of any kind of palm-tree, and includes any other liquid consisting of or containing alcohol which the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare to be a spirituous liquor for the purposes of this Act :
  - (d) "intoxicating drug" means opium, ganja, bhang, charas and every preparation and admixture thereof, and includes any other intoxicating substance or liquid which the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare to be an intoxicating drug for the purposes of this Act : and
  - (e) "owner" includes the person who is receiving or entitled to receive the rent of any building or land, whether on his own account or on behalf of himself and others or as an agent or trustee or who would so receive the rent or be entitled to receive it if the building or land were let to a tenant.
- (2) The provisions of the General Clauses Acts, 1868<sup>2</sup> and 1887,<sup>2</sup> shall, so far as they can be made applicable, apply to all rules which may be made under this Act by the Governor General in Council.

I of 1868.  
I of 1887.

## CHAPTER II.

### CANTONMENTS AND CANTONMENT AUTHORITIES, COURTS AND POLICE.

#### *Cantonments.*

Definition of  
cantonments.

4. (1) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare any place in which any of Her Majesty's regular forces are quartered within the territories administered by such Government to be a cantonment for the

<sup>1</sup> The figures "1881" were repealed by the Repealing and Amending Act, 1891 (12 of 1891). For the Army Act, see Coll. Stats. Ind., Vol. II.

<sup>2</sup> See now the General Clauses Act, 1897 (10 of 1897), ss. 20 to 24, *infra*.

(Chap. II.—Cantonments and Cantonment Authorities, Courts and Police.)

purposes of this Act and of all other enactments for the time being in force,<sup>1</sup> and may withdraw any such <sup>2</sup> declaration.

(2) The Local Government, with the like sanction, may also, by a like notification,<sup>3</sup> define the limits of any cantonment for the like purposes.

*Cantonment Authorities and Magistrates.*

5. For every cantonment beyond the limits of a presidency-town there shall be a cantonment authority and a Cantonment Magistrate.

Cantonment  
authority  
and Magis-  
trate.  
Cantonment  
authority.

6. (1) The expression "cantonment authority" as used in this Act means a cantonment committee or, <sup>4</sup> [ where a Cantonment Committee has not been constituted or has in pursuance of an order of the Local Government ceased to exist, or for any reason cannot be convened, then, subject to any rules made under section 26, clause (5), ] the commanding officer of the cantonment.

(2) The Local Government shall determine, with respect to every cantonment in which troops are for the time being quartered, whether or not a cantonment committee is to be constituted.<sup>5</sup>

(3) The cantonment authority shall be deemed to be a local authority as defined in the <sup>6</sup> Local Authorities Loan Act, 1879,<sup>7</sup> [the Cattle-trespass

XI of 1879.  
I of 1871.

<sup>1</sup> For notifications declaring places to be cantonments in—

(1) Bombay, *see* Bom. R. & O., Vol. I ;

(2) British Baluchistan (Loralai), *see* Gazette of India, 1896, Pt. II, p. 1051 ;

(3) Burma, *see* Bur. R. M., Vol. I ;

(4) United Provinces of Agra and Oudh, *see* U. P. List of Local R. & O., Vol. I.

<sup>2</sup> For instance of notification withdrawing a declaration as to a place being a cantonment, *see* Burma Gazette, 1886, Pt. I, p. 125. The notification is kept in force by s. 2 (2) of this Act.

For notification declaring that Vizianagram shall cease to be a cantonment, *see* Fort St. George Gazette, 1907, Pt. I A., p. 461.

For notification declaring that the local area comprised in the cantonment of Ludhiana has ceased to be a cantonment, *see* Punjab Govt. Gazette, 1902, Pt. I, p. 122.

<sup>3</sup> For notifications defining the limits or fixing the boundaries of cantonments in—

(1) Assam, *see* Assam Local R. & O. and supplement ;

(2) Bombay, *see* Bom. Local R. & O., Vol. I ;

Aden, *see* Bombay Govt. Gazette, 1901, Pt. I, p. 2396 ; *ibid*, 1903, Pt. I, p. 1427.

(3) Burma, *see* Bur. R. M., Vol. I.

(4) Central Provinces, *see* Cenl. Provs. Local R. & O.

(5) Madras, *see* Mad. R. & O., Vol. I.

(6) Punjab, *see* Punj. List of Local R. & O.

(7) United Provinces of Agra and Oudh, *see* U. P. List of Local R. & O. Vol. I, U. P. Govt. Gazette, 1907, Pt. III, pp. 22-39.

(8) N.-W. Frontier Province ( as to Nowshera Cantonment ), *see* Gazette of India, 1903, Pt. II, p. 969.

<sup>4</sup> These words were substituted for the words " in the case of a cantonment for which such a committee has not been constituted " by the Repealing and Amending Act, 1903 ( 1 of 1903 ), s. 3 and Schedule, Genl. Acts V.

<sup>5</sup> For instance of the issue of such notifications, *see* Punj. List of Local R. & O., U. P. List of Local R. and O., Vol. I.

<sup>6</sup> Genl. Acts, Vol. III.

<sup>7</sup> The words " the Cattle-trespass Act, 1871," were substituted for the words " Act XVIII of 1883 ( to amend the Cattle-trespass Act, 1871 )" by s. 11 of the Cattle-trespass Act ( 1871 ) Amendment Act, 1891 ( 1 of 1891 ). For Act I of 1871, *see* Genl. Acts, Vol. II.

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Act, 1871,] the <sup>1</sup> Indian Telegraph Act, 1885, and the <sup>2</sup> General Clauses Act, <sup>XIII of 1885.</sup>  
1887. <sup>I of 1887.</sup>

Cantonment  
Magistrate.

7. The Cantonment Magistrate shall be a <sup>3</sup> Magistrate appointed by the Local Government under section 12 of the <sup>4</sup> Code of Criminal Procedure, <sup>X of 1882.</sup> 1882, and, as such, subordinate to the District Magistrate or to the District Magistrate and the Subdivisional Magistrate, as the case may be, under section 17 of that Code.

*Cantonment Court of Small Causes.*

Appointment  
of Canton-  
ment Magis-  
trate as  
Judge of  
Cantonment  
Court of  
Small Causes.

8. <sup>5</sup> (1) When the Local Government appoints the Cantonment Magistrate to be the Judge of a Court of Small Causes established within a cantonment under the <sup>6</sup> Provincial Small Causes Courts Act, 1887, it shall, in its order <sup>IX of 1887.</sup> appointing him to be such Judge, declare, and may by notification in the official Gazette vary, within a limit of five hundred rupees, the value of the suits which are to be cognizable by him under that Act.

(2) The provisions of section 15, sub-section (3), of the said Act shall not apply to a Court of Small Causes of which a Cantonment Magistrate is the Judge.

Appointment  
of Additional  
Judge of  
Cantonment  
Court of  
Small Causes.

9. When the Local Government appoints an Additional Judge of a Court of Small Causes, of which a Cantonment Magistrate is the Judge, it shall, in its order appointing him to be such Additional Judge, declare, and may by notification in the official Gazette vary, within a limit of fifty rupees, the value of the suits with respect to which the functions of the Judge of the Court may be assigned to, and discharged by, the Additional Judge under section 8 of the <sup>6</sup> Provincial Small Cause Courts Act, 1887.

<sup>IX of 1887</sup>

Judges of  
existing Can-  
tonment  
Courts of  
Small Causes.

10. Every Cantonment Magistrate presiding over a Court of Small Causes in a cantonment at the commencement of this Act, and every Assistant Cantonment Magistrate then having any of the powers of the Judge of such Court, shall be deemed to have been appointed Judge and Additional Judge, respectively, under section 6 and section 8 of the <sup>6</sup> Provincial Small Cause Courts Act, 1887, and in the absence of any order of the Local Government <sup>IX of 1887.</sup> to the contrary to have jurisdiction with respect to all suits which are cognizable by a Court of Small Causes under that Act and of which the value does not exceed, in the case of a Cantonment Magistrate, five hundred rupees and, in the case of an Assistant Cantonment Magistrate, fifty rupees.

<sup>1</sup> Genl. Acts, Vol. III.

<sup>2</sup> See now the General Clauses Act, 1897 (10 of 1897), s. 3 (28), *infra*.

<sup>3</sup> For notification appointing station staff officers at certain cantonments to be Cantonment Magistrates, see Punj. List of Local R. & O.

<sup>4</sup> See now the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

<sup>5</sup> For notifications issued under this section, see U. P. List of Local R. & O., Vol. I.

<sup>6</sup> *Supra*.

(Chap. II.—Cantonments and Cantonment Authorities, Courts and Police.  
Chap. III.—Spirituuous Liquors and Intoxicating Drugs.)

11. A Cantonment Magistrate as Judge of a Court of Small Causes may, whatever may be the value of the suits cognizable by him as such Judge, dispose of any suit which was within the pecuniary limits of the jurisdiction of the Judge presiding over the Court at the time of the institution of the suit, and may entertain and dispose of any proceeding after decree in any such suit.

Continuance of jurisdiction of Cantonment Court of Small Causes in certain cases notwithstanding reduction of jurisdiction of Judge.

#### Cantonment Police.

12. (1) The police-force employed in a cantonment beyond the limits of a presidency-town shall, for the purposes of Act XXIV of 1859<sup>1</sup> (*for the better regulation of the police within the territories subject to the presidency of Fort St. George*) or Act V of 1861<sup>2</sup> (*for the regulation of Police*) or the corresponding<sup>3</sup> law for the time being in force in the territories administered by the Governor of Bombay in Council, as the case may be, be deemed to be part of the general police-establishment under the superintendence of the Local Government in whose territories the cantonment is situated.

Police.

(2) The area comprised within the limits of a cantonment shall be deemed to be a town for the purposes of section 34 of<sup>2</sup> Act V of 1861.

### CHAPTER III.

#### SPIRITUOUS LIQUORS AND INTOXICATING DRUGS.

13. If within a cantonment, or within such limits around a cantonment as the Local Government may, by<sup>4</sup> notification in the official Gazette, prescribe in this behalf, any person not subject to military law or any person subject to military law otherwise than as an officer or soldier knowingly barter, sells or supplies, or offers or attempts to barter, sell or supply any spirituous liquor or intoxicating drug to or for the use of any<sup>5</sup> [soldier or follower or soldier's wife] without the written permission of the commanding officer of the cantonment or of some person authorised by the commanding officer

Unauthorised sale of spirituous liquor or intoxicating drug.

<sup>1</sup> Mad. Code.

<sup>2</sup> Genl. Acts, Vol. I.

<sup>3</sup> As to Bombay, see now Bom. Dist. Police Act, 1890 (Bom. Act 4 of 1890), Bom. Code, Vol. I, III.

<sup>4</sup> For notifications issued under s. 13 in—

(1) Bombay, see Bom. R. & O., Vol. I;

(2) Burma, see Bur. R. M., Vol. I;

(3) Madras, see Mad. R. & O., Vol. I;

(4) United Provinces of Agra and Oudh, see U. P. List of Local R. & O., Vol. I;

(5) Punjab, see Punjab Govt. Gazette, 1908, Pt. I p. 499.

<sup>5</sup> Substituted for the words "European Soldier or to or for the use of any European or Eurasian being a follower or a soldier's wife" by the Amending (Army) Act, 1909 (5 of 1909), see App. II to Genl. Acts, Vol. VI.

*(Chap. III.—Spirituuous Liquors and Intoxicating Drugs.)*

to grant such permission, he shall be punished with a fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Unauthorised  
possession  
of spirituuous  
liquor.

14. If within a cantonment, or within such limits around a cantonment as the Local Government may, by notification in the official Gazette, prescribe in this behalf,—

(a) any person subject to military law otherwise than as an officer or soldier, or

(b) the wife or servant of any such person or of a soldier,  
has in his or her possession except on behalf of the Government or for the private use of an officer more than one quart of any spirituuous liquor other than fermented malt-liquor without the written permission of the commanding officer of the cantonment or of some person authorised by the commanding officer to grant such permission, he or she shall be punished in the case of a first offence against this section with fine which may extend to fifty rupees, and in the case of a subsequent offence against this section with fine which may extend to one hundred rupees or with imprisonment for a term which may extend to three months.

Arrest of  
persons and  
seizure and  
confiscation  
of things for  
offences  
against the  
two last  
foregoing  
sections.

15. (1) Any police-officer<sup>1</sup> (or excise-officer) may, without an order from a Magistrate and without a warrant, arrest any person whom he finds committing an offence against either of the two last foregoing sections, and may seize and detain any spirituuous liquor or intoxicating drug in respect of which such an offence has been committed, and any vessels or coverings in which the liquor or drug is contained.

(2) Where a person accused of an offence against section 13 has been previously convicted of an offence against that section, an officer in charge of a police-station may, with the written permission of a Magistrate, seize and detain any spirituuous liquor or intoxicating drug within the cantonment, or within the limits prescribed under section 13, which at the time of the alleged commission of the subsequent offence belonged to, or was in the possession of, the person.

(3) The Court convicting a person of an offence against section 13 or section 14 may order the confiscation of the whole or any part of anything seized under sub-section (1) or sub-section (2).

(4) Subject to the provisions of Chapter XLIII of the<sup>2</sup> Code of Criminal Procedure, 1882, anything seized under sub-section (1) or sub-section (2) and not confiscated under sub-section (3) shall be restored to the person from whom it was taken. X of 1882.

<sup>1</sup> Inserted by the Amending (Army) Act 1909 (5 of 1909.) see App. II to Genl. Acts, Vol. VI.

<sup>2</sup> See now the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

(Chap. III.—*Spirituous Liquor and Intoxicating Drugs.* Chap. IV.—*Taxation and Cantonment Fund.*)

16. The foregoing provisions of this Chapter shall not apply to the sale or supply of any article for medicinal purposes by a medical practitioner, chemist or druggist.

Saving of articles sold or supplied for medicinal purposes.

## CHAPTER IV.

### TAXATION AND CANTONMENT FUND.

#### *Taxation.*

17. (4) With the previous sanction of the Governor General in Council, the Local Government may, by notification in the official Gazette,—

General power of taxation.

(a) <sup>1</sup> impose in any cantonment which is not included in a municipality any tax which, under any enactment in force at the date of the notification, can be imposed in any municipality within the territories administered by such Government, and

(b), <sup>2</sup> abolish or modify any tax so imposed.

(2) When any tax is leviable in a cantonment in pursuance of a notification under sub-section (1), the Local Government, with the like sanction, may, by a like notification, <sup>3</sup> apply or adapt to the cantonment the provisions of any enactment or <sup>4</sup> rules in force at the date of the notification for the assessment and recovery of any tax in any municipality within the territories administered by such Government.

<sup>1</sup> For notifications imposing taxes in cantonments in—

(1) Assam, *see* Assam R. & O.;

(2) Bengal, including districts now under Eastern Bengal and Assam, *see* Ben. Stat. R. & O., Vol. II;

(3) Bombay, *see* Bom. R. & O., Vol. I;

(4) Burma, *see* Bur. R. M., Vol. I;

(5) Central Provinces, *see* Cenl. Provs. R. & O.;

(6) Madras, *see* Mad. R. & O., Vol. I;

(7) Punjab, *see* Punj. List of Local R. & O.;

(8) United Provinces of Agra and Oudh, *see* U. P. List of Local R. & O., Vol. I.

<sup>2</sup> For notification modifying a tax, *see* Punj. List of Local R. & O., Punjab Govt. Gazette, 1907, Pt. I, pp. 43 and 56; *ibid*, 1907, Pt. I A., p. 134.

<sup>3</sup> For instances of such application in—

(1) Bombay, *see* Bom. R. & O., Vol. I;

(2) Burma, *see* Burma R. M., Vol. I;

(3) Punjab, *see* Punj. List of Local R. & O.

<sup>4</sup> For notifications prescribing rules for the assessment and recovery of taxes imposed in cantonments in—

(1) Bengal, including districts now under Eastern Bengal and Assam, *see* Ben. Stat. R. & O., Vol. II;

(2) Bombay, *see* Bom. R. & O., Vol. I;

(3) Burma, *see* Bur. R. M., Vol. I;

(4) Central Provinces, *see* Cenl. Provs. R. & O.

(5) Madras, *see* Mad. R. & O., Vol. I;

(6) United Provinces of Agra and Oudh, *see* U. P. List of Local R. & O., Vol. I.

(7) Punjab, *see* Punj. List of Local R. & O.; Punjab Govt. Gazette, 1907, Pt. I, p. 335.

Extension of Act XX of 1856 to certain cantonments.

18. (1) The Local Government may, by <sup>1</sup> notification in the official Gazette, extend the provisions of Act XX of 1856 <sup>2</sup> (to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bazars in the Presidency of Fort William in Bengal) to any cantonment which is not included in a municipality and which, is situated in any part of British India in which that Act is in force, and the Cantonment Magistrate may exercise all the powers of the Magistrate under that Act, subject only to the control of the District Magistrate and the Local Government.

(2) The Local Government may order that a cantonment to which the provisions of <sup>3</sup> Act XX of 1856 have been extended shall be divided into any number of cantonment divisions, and may <sup>3</sup> determine the nature of the tax to be levied in each such division according to section 10 of that Act.

(3) The Local Government may, by notification in the official Gazette, cancel any notification under sub-section (1), and may revoke or vary any order under sub-section (2).

Restriction of power of taxation in cantonments in which Act XX of 1856 is in force.

19. While a tax assessed according to the circumstances, and the property to be protected, of the persons liable thereto, or according to the annual value of houses and grounds, is levied under <sup>2</sup> Act XX of 1856 in a cantonment, a tax on persons practising any profession or art or carrying on any trade or calling, or a tax on buildings and lands, as the case may be, <sup>5</sup>[shall not be leviable in the cantonment in pursuance of a notification under section 17 of this Act].

Power to prohibit or exempt from taxation.

20. (1) <sup>6</sup>Notwithstanding anything in any enactment for the time being in force, the Governor-General in Council may, by notification in the Gazette of India, prohibit the levy of the whole or any part of any tax imposed in a cantonment, or exempt any person by name or in virtue of his office or any class of persons, or any property or any class of property, from the operation of any such tax, and may, by a like notification, rescind any such prohibition or exemption.

<sup>1</sup> For instances of such a notification, see Punjab Govt. Gazette, 1899, Pt. I A., p. 150, and U. P. List of Local R. & O., Vol. I.

<sup>2</sup> Punjab and N.-W. Code, U. P. Code, and Aj. Code.

<sup>3</sup> For notification issued under this clause, see U. P. List of Local R. & O., Vol. I.

<sup>4</sup> These words were substituted for the words "shall not be imposed under section 17 of this Act in the cantonment" by the Amending Act, 1891 (12 of 1891), *infra*. This amendment is to have effect as from the commencement of Act 13 of 1889, see s. 2 (3) of Act 12 of 1891.

<sup>5</sup> For notifications issued under this section, see Genl. Stat. R. & O., Vols. II and VI; Punjab List of Local R. & O., and U. P. List of Local R. & O., Vol. I.

*(Chap. IV.—Taxation and Cantonment Fund.)*

XI of 1881. (2) Where the area, subject to the authority of a municipal committee as defined in section 2 of the <sup>1</sup>Municipal Taxation Act, 1881, includes the whole or part of a cantonment, nothing in section 4 or section 5 of that Act or in any other like enactment for the time being in force shall apply to so much of that area as is comprised in the cantonment.

*Cantonment Fund.*

21. (1) There shall be formed for every cantonment which is not included in a municipality a cantonment fund, and there shall be placed to the credit thereof, among other sums, the following, namely :—

Cantonment fund.

X of 1882.

(a) subject to deductions under section 545 of the <sup>2</sup> Code of Criminal Procedure, 1882, or under any other enactment for the time being in force, or under any order of the Local Government, all fines recovered from persons convicted of offences committed within the cantonment against this Act or against any enactment extended; or rule made thereunder, or against the provisions of section 34 of <sup>3</sup> Act V of 1861 or the corresponding enactment for the time being in force in the territories administered by the Governor of Fort St. George in Council or by the Governor of Bombay in Council, or against the provisions of Chapter XIII or Chapter XIV of the <sup>1</sup> Indian Penal Code or of section 156 of the Army Act ; <sup>4</sup>\*

XLV of 1860,  
44 & 45 Vict.,  
c. 58.

(b) the proceeds of taxes imposed under section 17 or levied under <sup>5</sup> Act XX of 1856 in the cantonment ; and

(c) rents and profits accruing from property placed by the Government under the management of the cantonment authority.

(2) Notwithstanding anything in any enactment as to the purposes to which the proceeds of a tax are to be appropriated, the cantonment fund shall be applicable, subject to the rules under this Act, to the maintenance of the police-force employed in the cantonment and to the other purposes of this Act within the cantonment and, with the general or special sanction of the Local Government, to like objects, within or without British India, beyond the limits of the cantonment in cases in which, in the opinion of the Local

<sup>1</sup> Genl. Acts, Vol. III.

<sup>2</sup> See now the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

<sup>3</sup> Genl. Acts, Vol. I. As to Madras and Bombay, see Act 24 of 1859, Mad. Code, Vol. I and Bom. Dist. Police Act, 1890 (Bom. Act 4 of 1890), Bom. Code, Vol. III.

<sup>4</sup> The figures "1881" were repealed by the Repealing and Amending Act, 1891 (12 of 1891). or the Army Act, see Coll. Stats., Ind., Vol. II.

<sup>5</sup> Panj. and N.-W. Code ; U. P. Code, and Ajmer Code.



*(Chap. IV.—Taxation and Cantonment Fund.)**(Chap. V.—Supplemental Provisions.)*

Government, the application of the fund beyond those limits is for the benefit of the inhabitants of the cantonment or of any military force ordinarily quartered therein or of any detachment of any such force.

Custody of  
cantonment  
fund.

22. (1) Where, in or near a cantonment there is a Government treasury or sub-treasury or a bank to which the Government treasury business has been made over, the cantonment fund shall be kept in the treasury, sub-treasury or bank.

(2) Where there is no such treasury, sub-treasury or bank, the cantonment fund may be deposited with any banker or person, acting as a banker, who has given such security for the safe custody and repayment on demand of the fund so deposited as the District Magistrate may in each case think sufficient.

Vesting and  
management  
of canton-  
ment fund.

23. The cantonment fund shall be vested in Her Majesty, and subject to the provisions of this Act and of the rules thereunder and to the control of the local Government, the management of the fund shall be entrusted to the cantonment authority.

Acquisition  
of immove-  
able property  
at cost of  
cantonment  
fund.

24. The cantonment funds shall be deemed to be "public revenues" within the meaning of the proviso to section 6 of the <sup>1</sup>Land Acquisition Act, 1870, X of 1870. and any property acquired at the cost of the cantonment fund shall vest in Her Majesty.

## CHAPTER V.

## SUPPLEMENTAL PROVISIONS.

Extension of  
enactments  
to canton-  
ments.

25. The Governor General in Council may, by notification in the Gazette of India, <sup>2</sup>extend to all cantonments or to any cantonment or to any part of any cantonment any enactment for the time being in force in any municipality in British India, and declare its extension to be subject to such restrictions and modifications, if any, as he thinks fit.

Matters res-  
pecting

<sup>2</sup> 26. The Governor General in Council may make rules consistent with this Act to provide for all or any of the following matters, namely :—

<sup>1</sup> See now the Land Acquisition Act, 1894 (1 of 1894), *infra*.

<sup>2</sup> For enactments extended or applied and rules made under s. 25 and s. 26, respectively, for all cantonments in British India, see the Cantonment Code, 1899, Gazette of India, 1899, Pt. I, p. 477.

For cantonments exempted from the operation of the Cantonment Code, 1899, see Genl. Stat. R. and O., Vol. II.

For notification extending certain sections of the Calcutta Municipal Act, 1899 (Ben. Act 2 of 1899) to Cantonments (to which the Cantonment Code, 1899 applies), see Gazette of India, 1901, Pt. I, p. 837.

For extension of certain sections of the Punjab Municipal Act, 1891 (20 of 1891), to certain cantonments in the Punjab, see Punjab List of Local R. and O., and for extension of s. 186 of the same Act to Jullundur Cantonment, see Gazette of India, 1900, Pt. I, p. 408.

For extension to the Cantonment of Pachmari, in a modified form, of s. 18 of the Central Provinces Municipal Act, 1889 (18 of 1889), for the time being in force in the municipality of Pachmari, see Gazette of India, 1901, Pt. I, p. 426.

For extension of certain sections of the United Provinces Municipalities Act, 1900 (U. P. Act I of 1900), to Bareilly Cantonment, see United Provinces Gazette, 1903, Pt. I, p. 812.

For extension of the provisions of section 229 of the District Municipalities Act, 1884, to the cantonment of Bellary, see Fort St. George Gazette, 1907, Pt. I, p. 269.

*(Chap. V.—Supplemental Provisions.)*

- (1) the manner in which, and the authority to which, application for permission to occupy land belonging to the Government in a cantonment is to be made; <sup>which rules may be made.</sup>
- (2) the conditions to be annexed to every such permission given in pursuance of such an application ;
- (3) the preparation and maintenance of registers of immoveable property in cantonments ;
- (4) the constitution of cantonment committees, the functions to be discharged by them, the conduct of, and the control to be exercised over, their proceedings, and the division of duties among the members of such committees ;
- (5) the functions to be discharged by the commanding officer of a cantonment where a cantonment committee has not been constituted, or has in pursuance of an order of the Local Government ceased to exist, or for any reason cannot be convened ;
- (6) the executive duties of the Cantonment Magistrate and his position in relation to the commanding officer of the cantonment ;
- (7) the purposes to which the cantonment fund may be applied ;
- (8) the authority on which money may be paid from the cantonment fund ;
- (9) the investment of any balance of that fund ;
- (10) the execution of contracts by, or on behalf of, the cantonment authority ;
- (11) the accounts to be kept by the cantonment authority, and the manner in which those accounts are to be audited and published ;
- (12) the definition and abatement of nuisances for which sufficient provision has not, in the opinion of the Governor General in Council, been made under section 25 ;
- (13) the requisitions which may be made on persons having the control of sewers, drains, latrines or other things creating, or likely to create, nuisances, and the mode of enforcing such requisitions ;
- (14) the prevention of the overcrowding of buildings and places in a cantonment ;
- (15) the construction and maintenance, to the satisfaction of the cantonment authority, of buildings and of boundary walls, hedges and other fences ;
- <sup>1</sup>(16) the regulation of the practice of agriculture and irrigation in a cantonment, the keeping of lands therein in proper order, and the felling, lopping and trimming of trees on such lands ;

<sup>1</sup> For rules under clause (16) and section 27 for the Cantonment of Pachunari, *see* Gazette of India, 19, Pt. I, p. 588.

## (Chap. V.—Supplemental Provisions.)

- <sup>1</sup> (17) the regulation of encamping-grounds,<sup>2</sup> serais, markets and slaughter-houses, of traffic on roads, and of processions and public assemblies ;
- (18) the use and management of burial and burning grounds ;
- (19) the supervision and the regulation of the use of public wells, tanks, rivers, streams, springs or other sources from which water is or may be made available for public use, and of the lands in the vicinity thereof ;

- <sup>3</sup> (20) the parts of a cantonment in which persons practising any profession or carrying on any trade, calling or occupation may be required to reside for the purpose of practising the profession or carrying on the trade, calling or occupation, and the conditions, if any, to be observed by such persons ;

- (21) the prevention of the spread of infectious or contagious disorders within a cantonment, and the appointment and regulation of hospitals or other places within or without a cantonment for the reception and treatment of persons suffering from any disease ;

- (22) the segregation in, or the removal and exclusion from, a cantonment, or the destruction of animals suffering or supposed to be suffering from any infectious or contagious disease ;

- (23) the suppression of mendicancy and of loitering or importuning for the purpose of prostitution, and the removal and exclusion from a cantonment of disorderly persons, of persons who have been convicted of any offence against Chapter XVII of the <sup>4</sup> Indian Penal Code, or section 156 of the Army Act, <sup>5</sup> or have been ordered under the <sup>6</sup> Code of Criminal Procedure, 1882, to execute a bond for their good behaviour, and of persons whom the commanding officer deems it expedient to exclude from the cantonment with or without assigning any reason for excluding them therefrom ;

XLV of 1860.  
44 & 45 Vict.,  
c. 58.  
X of 1882.

<sup>1</sup> For rules under clause (17) for the Cantonment of Jhansi, *see* Gazette of India, 1908, Pt. 1, p. 329. For the Cantonment of Kamptee, *see* C. P. R. and O.

<sup>2</sup> For special Act for the regulation of public serais, *see* Act 22 of 1867, Genl. Acts, Vol. I.

<sup>3</sup> For rules under clause (20) for the Cantonment of Pachmari, *see* Gazette of India, 1908, Pt. 1, p. 311, for the Cantonment of Kamptee, *see* C. P. Local R. and O.

<sup>4</sup> Genl. Acts, Vol. I.

<sup>5</sup> The figures "1881" were repealed by the Repealing and Amending Act, 1891 (12 of 1891). For the Army Act, *see* Coll. Stats. Ind.

<sup>6</sup> *See* now the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

## (Chap. V.—Supplemental Provisions.)

- (24) the <sup>1</sup> prevention of cruelty to animals and the care of animals while grazing ;
- (25) the prevention and extinction of fires ;
- (26) the registration of births and deaths ;
- (27) the appointment by owners of buildings and lands in cantonments, who are absent from cantonments, of persons residing within or near cantonments, to act as their agents for all or any of the purposes of this Act or any enactment extended or rule made thereunder ;
- (28) the powers of inspection, entry and search which may be exercised in carrying out any of those purposes, and the cases in which breaches of enactments extended or rules made under this Act are to be cognizable offences ;
- (29) the mode in which summonses, notices, requisitions and other documents are to be served on the persons to whom they are addressed ;
- (30) the cases, authorities and conditions in, to and on which executive orders passed under this Act or any enactment extended or rule made thereunder may be appealed from ; and,
- (31) generally, the carrying out of the purposes of this Act. \* \* \*

<sup>2</sup> 27. (1) The power to make rules under the last foregoing section is subject to the condition of the rules being made after previous publication and of their not taking effect until they have been published in the Gazette of India and in such other manner as the Governor General in Council prescribes.

Supplemental provisions respecting rules.

(2) A rule under the last foregoing section may be general for all cantonments in British India or for all cantonments not expressly excepted from its operation, or may be special for the whole or any part of any one or more than one cantonment, as the Governor General in Council directs.

(3) A copy of the rules for the time being in force in a cantonment shall be kept open to inspection free of charge at all reasonable times in the office of the Cantonment Magistrate.

(4) In making any rule under clause (12) or any of the following clauses of the last foregoing section, the Governor General in Council may direct

<sup>1</sup> For special Act for the prevention of cruelty to animals, see Act 11 of 1890, *infra*.

<sup>2</sup> The proviso which was added after cl. (31) by the Cantonments Act Amendment Act, 1895 (5 of 1895), s. 2, was repealed by the Cantonments Act, 1897 (15 of 1897), *infra*.

<sup>3</sup> For rules under s. 27, see the Cantonment Code, 1899, Gazette of India, 1899, Pt. I, p. 477.

*(Chap. V.—Supplemental Provisions.)*

that a breach of it shall be punished with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to eight days, and, when the breach is a continuing breach with fine which, in addition to such fine or imprisonment as aforesaid, may extend to five rupees for every day after the first during which the breach continues.

Extension of certain enactments and rules to places beyond cantonments.

<sup>1</sup> 28. The Local Government may, by notification in the official Gazette and subject to any conditions as to compensation or otherwise which it may see fit to impose, extend to any area beyond a cantonment and in the vicinity thereof—

(a) any enactment which, with or without restriction or modification, has been extended to the cantonment or any part thereof under section 25, or

(b) any rule in force in the cantonment or any part thereof under clause (12) or any of the following clauses of section 26, as well as any direction there in force under sub-section (4) of section 27;

and the enactment, rule or direction specified in the notification shall, so long as the notification remains uncanceled, apply to that area as if the area were included in the cantonment.

Inapplicability of section 555, Act X, 1882, to trials of offences against this Act.

29. A Judge or Magistrate shall not be deemed within the meaning of section 555 of the <sup>2</sup> Code of Criminal Procedure, 1882, to be a party to or personally interested in, any prosecution for an offence against this Act, or against any enactment extended or rule made thereunder, because he is a member of the cantonment committee or, where there is no such committee, is the commanding officer of the cantonment or because he has ordered or approved the prosecution. X of 1882.

Cantonments in presidency towns.

30. Where a cantonment is situated within the limits of a presidency town, the functions assigned to any authority by this Act or any enactment extended or rule made thereunder shall, subject to the provisions of any enactment for the time being in force, be discharged by such authority as the Local Government may appoint in this behalf.

<sup>1</sup> For such notifications in :—

(1) Bengal, including districts now under E. B. & A., see Ben. Stat. R. & O., Vol. II.

(2) Bombay, see Bom. Local R. & O., Vol. I.

(3) Burma, see Bur. R. M., Vol. I.

(4) Central Provinces, see C. P. R. & O.

(5) Madras, see Mad. R. & O., Vol. I.

(6) Punjab, see Punj. List of Local R. & O.

(7) United Provinces of Agra and Oudh, see U. P. List of Local R. & O., Vol. I.

<sup>2</sup> See now the Code of Criminal Procedure, 1898 (Act V of 1898), Genl. Acts, Vol. V.

## (Chap. V.—Supplemental Provisions.)

31. A suit or prosecution shall not be entertained <sup>a</sup> in any Court against any cantonment authority, authority appointed under the last foregoing section, Cantonment Magistrate <sup>1</sup> [or commanding, medical or other officer] for anything in <sup>2</sup> good faith done or purporting to be done in pursuance of powers conferred by or under this Act on such authority, Magistrate or officer, whether the thing done was or was not authorised by the powers so conferred.

Protection of  
cantonment  
authority,  
Magistrate  
and com-  
manding  
officer.

IV of 1882. 32. (1) Section 54, paragraphs 2 and 3, and sections 59, 107 and 123 of the <sup>3</sup> Transfer of Property Act, 1882, with respect to the transfer of property by registered instrument, shall, on and from the commencement of this Act, extend to every cantonment in British India.

III of 1877.

Registration. (2) Where a cantonment has not been constituted a sub-district or district for the purposes of the <sup>4</sup> Indian Registration Act, 1877, under section 9 of that Act, the Registrar of the district in which the cantonment is situated shall cause a copy of such entries in Indexes Nos. I and II as relate to immoveable property within the limits of the cantonment to be forwarded to the Cantonment Magistrate annually or at such shorter intervals as the Local Government may prescribe.

33. The Governor General in Council may, by notification in the Gazette of India, exclude from the operation of the whole or any part of this Act the whole or any part of any cantonment.

Limitation of  
the operation  
of this Act.

<sup>1</sup> These words were substituted for the words "or commanding officer" by s. 3 of the Cantonments Act Amendment Act, 1897 (15 of 1897), *infra*.

<sup>2</sup> See definition of "good faith" in the Penal Code (Act 45 of 1860), s. 52, Genl. Acts, Vol. I, and s. 3(20) of the General Clauses Act, 1897 (10 of 1897), *infra*.

<sup>3</sup> Genl. Acts, Vol. III.

<sup>4</sup> See now the Indian Registration Act, 1908 (16 of 1908), Genl. Acts, Vol. VI, by which Act 3 of 1877 is now repealed.

(The Schedule. Enactments repealed.)

## THE SCHEDULE.

## ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Subject or title.	Extent of repeal.
1	2	3
<i>Acts of the Governor General in Council.</i>		
Act XVIII of 1853	Sale of spirits in cantonments.	The whole, so far as it has not been repealed.
Act IV of 1854	Sentences of Superintendents of Bazars.	The whole, so far as it has not been repealed.
<sup>1</sup> Act XLV of 1860	Indian Penal Code	The words "or before a Military Court of Request" in <i>Explanation 1</i> to section 193.
<sup>2</sup> Act V of 1869	Indian Articles of War	Part III, clause (c) : and for the last twenty-seven words of Part I, clause (f), the following shall be substituted, namely :— "and officers in charge of the police in cantonments are defined and controlled."
<sup>2</sup> Act VII of 1870	Court-fees Act, 1870	Section 19, clause iv, and in Schedule II, article I, clause (a), the words "or to any Cantonment Magistrate sitting as a Court of Civil Judicature under Act No. III of 1859."
<sup>2</sup> Act XV of 1874	Laws Local Extent Act, 1874.	So much of the second schedule as relates to Madras Regulation XIV of 1832 : so much of the third schedule as relates to sections 18, 19, 20, 45, 46 and 47 of Bombay Regulation XXII of 1827 : and so much of the fourth and fifth schedules as relates to Bengal Regulation XX of 1810.
<sup>3</sup> Act XX of 1875	Central Provinces Laws Act, 1875.	So much as relates to Bengal Regulation XX of 1810.

<sup>1</sup> Genl. Acts, Vol. I.<sup>2</sup> Genl. Acts, Vol. II.<sup>3</sup> Central Provinces Code.

(The Schedule. Enactments repealed.)

## THE SCHEDULE—continued.

Number and year.	Subject or title.	Extent of repeal.
	2	3
<i>Acts of the Governor General in Council—concluded.</i>		
<sup>1</sup> Act XVIII of 1876	Oudh Laws Act, 1876	So much as relates to Bengal Regulation XX of 1810.
<sup>2</sup> Act III of 1877	Indian Registration Act, 1877.	The second paragraph of section 9, beginning with the word "Whenever" and ending with the word "thereof."
Act XIV of 1879	Hackney-carriage Act, 1879.	Section 4, from and inclusive of the words "and the Governor General in Council may" down to and inclusive of the words "in which British troops are cantoned."
Act III of 1880	Cantonments Act, 1880	So much as has not been repealed.
Act XXII of 1881	Excise Act, 1881	The proviso to section 53.
<sup>3</sup> Act X of 1882	Code of Criminal Procedure, 1882.	Clause (b) of section 1.
<sup>4</sup> Act XIV of 1882	Code of Civil Procedure	Section 6, clause (a), the words "an officer or" in section 468 and the whole of section 469.
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*Regulation of the Bengal Code.*

Regulation XX of 1810.	Military Bazaars	So much as has not been repealed.
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<sup>1</sup> U. P. Code, Vol. I.<sup>2</sup> Since entirely repealed by the Registration Act, 1908 (18 of 1908), Genl. Acts, Vol. VI.<sup>3</sup> Punj. and N.-W. Code; Bur. Code; C. Provs. Code; U. Provs. Code; Coorg Code and Aj. Code.<sup>4</sup> This Act has now been entirely repealed by the Excise Act, 1896 (12 of 1896), *ibid*.<sup>5</sup> Repealed by the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.<sup>6</sup> Now entirely repealed by the Code of Civil Procedure, 1908 (Act 5 of 1908), Genl. Acts, Vol. VI.<sup>7</sup> The reference to the Upper Burma Laws Act, 1886 (20 of 1886), has been repealed by the Burma Laws Act, 1898 (13 of 1898), see the Fifth Schedule, Bur. Code,



(The Schedule. Enactments repealed.)

## THE SCHEDULE—concluded.

Number and year.	Subject or title.	Extent of repeal.
1	2	3

*Regulation of the Bombay Code.*

<sup>1</sup> Regulation XXII of 1827.	Military authority .	So much as has not been repealed, except sections 40, 41, 42 and 43.
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*Acts of the Governor of Fort St. George in Council.*

Act IV of 1865	Madras Cantonments	The whole, so far as it has not been repealed.
Act I of 1866 .	Madras Cantonments	So much as has not been repealed.

*Act of the Governor of Bombay in Council.*

Act III of 1867	Bombay Cantonment Act of 1867.	So much as has not been repealed.
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*Act of the Lieutenant-Governor of Bengal in Council.*

<sup>2</sup> Act VII of 1878	Bengal Excise Act, 1878 .	The proviso to section 81.
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*Regulation under the Statute 33 Victoria, Chapter 3.*

<sup>3</sup> III of 1877 .	Ajmer Laws Regulation, 1877.	Section 39 and so much as relates to Bengal Regulation XX of 1810.
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<sup>1</sup> Bom. Code, Vol. I.<sup>2</sup> Ben. Code, Vol. I.<sup>3</sup> Aj. Code.

## ACT No. XV OF 1889.

[17th October, 1889.]

## An Act to prevent the Disclosure of Official Documents and Information.

WHEREAS it is expedient to prevent the disclosure of official documents and information ; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Official Secrets Act, 1889 ; and

Title, extent and application.

(2) It extends to the whole of British India, and applies—

- (a) to all subjects of His Majesty within the dominions of Princes and States in India in alliance with His Majesty, and
- (b) to all native Indian subjects of His Majesty without and beyond British India.

2. In this Act, unless there is something repugnant in the subject or context,—

Definitions.

- (1) any reference to a place belonging to His Majesty includes a place belonging to any department of the Government, whether the place is or is not actually vested in His Majesty :
- (2) expressions referring to communications include any communication, whether in whole or in part, and whether the document, sketch, plan, model or information itself or the substance or effect thereof only be communicated :
- (3) “document” includes part of a document :
- (4) “model” includes design, pattern and specimen :

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1889, Pt. V, p. 206, and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 167 and 176.

For Statement of Objects and Reasons of the Indian Official Secrets (Amendment) Act, 1904 (5 of 1904), see Gazette of India, 1903, Pt. V, p. 464 ; for Report of the Select Committee, see *ibid.*, 1904, p. 13, and for Proceedings in Council, see *ibid.*, 1903, Pt. VI, pp. 156, 188 and 198, *ibid.*, 1904, Pt. VI, pp. 14 and 27.

Act 15 of 1889 has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

It had been previously extended there under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), see Bur. Gazette, 1898, Pt. I, p. 154.

Act 5 of 1904 extends to Upper Burma, *proprio vigore*.

Act 15 of 1889 has been declared in force in British Baluchistan, by the British Baluchistan Laws Regulation, 1890 (1 of 1890), s. 3, Bal. Code. It has been declared in force in the Sonthal Parganas by s. 3 of the Sonthal Parganas Settlement Regulation (3 of 1872) as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), Ben. Code, Vol. I.

The expression “His Majesty” was substituted throughout this Act for the expression “Her Majesty” by s. 6 of the Indian Official Secrets (Amendment) Act, 1904 (5 of 1904), Genl. Acts, Vol. VI.

- (5) "sketch" includes any photograph or other mode of representation of any place or thing :

\* 1

- (6) "office under His Majesty" includes any office or employment in or under any department of the Government :<sup>1</sup> [and

- (7) "civil affairs" means affairs—

- (a) affecting the relations of His Majesty's Government or of the Governor General in Council with any <sup>2</sup> foreign State, or
- (b) affecting the relations of the Governor General in Council with any Native State in India, or relating to the public debt or the fiscal arrangements of the Government of India or any other important matters of State, where these affairs are of such a confidential nature that the public interest would suffer by their disclosure.]

**Disclosure of information.**

3. (1) (a) Where a person for the purpose of wrongfully obtaining information—

- (i) enters or is in any part of a place belonging to His Majesty, being a fortress, arsenal, factory, dockyard, camp, ship <sup>3</sup>\* or other like place, in which part he is not entitled to be, or,

- (ii) when lawfully or unlawfully in any such place as aforesaid, <sup>4</sup>[or in any office belonging to His Majesty] either obtains <sup>3</sup>[or attempts to obtain] any document, sketch, plan, model or knowledge of <sup>3</sup>[any naval, military or civil affair of His Majesty] which he is not entitled to obtain, <sup>3</sup>[or any copy of any such document, sketch, plan or model] or takes <sup>3</sup>[or attempts to take] without lawful authority any sketch or plan, or,

- (iii) when outside any fortress, arsenal, factory, dockyard or camp belonging to His Majesty, takes or attempts to take without authority given by or on behalf of His Majesty any sketch or plan of that fortress, arsenal, factory, dockyard or camp, or

- (b) where a person knowingly having possession of, or control over, any such document, sketch, plan, model or knowledge as has

<sup>1</sup> The word "and" between clauses (5) and (6) was repealed, while the word "and" at the end of clause (6), and clause (7), were added to s. 2 of the Indian Official Secrets (Amendment) Act, 1904 (5 of 1904), Genl. Acts, Vol. VI.

<sup>2</sup> See definition of "foreign state," in s. 2 (c) of the Indian Extradition Act, 1903 (15 of 1903), Genl. Acts, Vol. VI.

<sup>3</sup> The word "office" was repealed by s. 3 (a) of the Indian Official Secrets (Amendment) Act, 1904 (5 of 1904).

<sup>4</sup> These words were inserted, and the words "any naval, military or civil affair of His Majesty" were substituted for the word "anything", by s. 3 (b) of the Indian Official Secrets (Amendment) Act, 1904 (5 of 1904).

been obtained or taken by means of any act which constitutes an offence against this Act at any time wilfully and without lawful authority communicates or attempts to communicate the same to any person to whom the same ought not, <sup>1</sup> [in the public interest], to be communicated at that time, or

(c) where a person after having been entrusted in confidence by some officer under His Majesty with any document, sketch, plan, model or information relating to any such place as aforesaid, or to the <sup>2</sup> [naval, military or civil] affairs of His Majesty, wilfully and in breach of such confidence communicates the same when <sup>1</sup> [in the public interest] it ought not to be communicated, he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both ;

<sup>3</sup> (2) Where a person commits any act specified in clauses (i), (ii) and (iii) of sub-section (1), sub-head (a), without lawful authority or permission (the proof of which authority or permission shall be upon him), the Court may presume that he has committed such act for the purpose of wrongfully obtaining information ; and

<sup>3</sup> [(3)] Where a person having possession of any document, sketch, plan, model or information relating to any fortress, arsenal, factory, dockyard, camp, ship, office or other like place belonging to His Majesty, or to the <sup>2</sup> [naval, military or civil] affairs of His Majesty, in whatever manner the same has been obtained or taken, at any time wilfully communicates the same to any person to whom he knows the same ought not, <sup>1</sup> [in the public interest,] to be communicated at that time, he shall be liable to the same punishment as if he committed an offence under the foregoing provisions of this section.

<sup>3</sup> [(4)] Where a person commits any act declared by this section to be an offence, he shall, if he intended to communicate to a foreign State any information, document, sketch, plan, model or knowledge obtained or taken by him, or entrusted to him as aforesaid, or if he communicates the same to any agent of a foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years.

<sup>1</sup> These words were substituted for the words "in the interest of the State", by s. 3 (e) of Act 5 of 1904, Genl. Acts, Vol. VI.

<sup>2</sup> These words were substituted for the words "naval or military", by s. 3 (c) of the Indian Official Secrets (Amendment) Act, 1904 (5 of 1904).

<sup>3</sup> Sub-section (2) was inserted, and the original sub-sections (2) & (3) renumbered as (3) & (4), by s. 3 (d) of Act 5 of 1904.

Breach of  
official trust.

4. (1) Where a person, by means of his holding or having held an office under His Majesty, has lawfully or unlawfully either obtained possession of or control over any document, sketch, plan or model, or acquired any information, and at any time corruptly or contrary to his official duty communicates or attempts to communicate that document, sketch, plan, model or information to any person to whom the same ought not, <sup>1</sup>\* \* \* \* in the public interest, to be communicated at that time, he shall be guilty of a breach of official trust.

(2) A person guilty of a breach of official trust shall—

- (a) if the communication was made or attempted to be made to a foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years, and
- (b) in any other case be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(3) This section shall apply to a person holding a contract with any department of the Government, or with the holder of any office under His Majesty as such holder, where such contract involves an obligation of secrecy, and to any person employed by any person or body of persons holding such a contract, who is under a like obligation of secrecy, as if the person holding the contract and the person so employed were respectively holders of an office under His Majesty.

Certain  
offences  
under Act  
declared cog-  
nizable.

5. <sup>2</sup> (1) Notwithstanding anything in the <sup>3</sup> Code of Criminal Procedure, <sup>v</sup> of 1898, 1898, every offence against this Act committed in relation to any fortress, arsenal, factory, dockyard, camp or ship belonging to His Majesty, or in relation to the naval or military affairs of His Majesty, shall, for the purposes of the said Code, be deemed to be cognizable :

Provided that a person accused of any such offence shall not be released on bail unless on the order of a Magistrate of the first class.

(2) Every other offence against this Act shall be non-cognizable.

Procedure  
after arrest  
on charge of  
certain offen-  
ces punishable  
under Act.

<sup>2</sup> 6. (1) Any person, being a public servant as defined in the <sup>4</sup> Indian Penal <sup>XLV</sup> of 1860. Code, may arrest any person who in his view commits any of the offences described in section 5, sub-section (1), and any such person, or any police-officer who has arrested any person on a charge of any such offence, and any police-officer to whom any person arrested on any such charge has been made over,

<sup>1</sup> The words "in the interest of the State, or otherwise," were repealed by s. 4 of the Indian Official Secrets (Amendment) Act, 1904 (5 of 1904), Genl. Acts, Vol. VI.

<sup>2</sup> Sections 5, 6 and 7 were substituted for the original section 5, by s. 5 of Act 5 of 1904.

<sup>3</sup> Genl. Acts, Vol. V.

<sup>4</sup> Genl. Acts, Vol. I.

shall take or send him before the officer for the time being in command or charge of the fortress, arsenal, factory, dockyard, camp or ship, or of the nearest military station or before a Magistrate of the first class.

(2) Where any person has been taken or sent before the commanding or other officer in accordance with sub-section (1), such officer may, if he thinks fit, discharge such person, but, if he does not discharge him, shall without unnecessary delay, take or send him to the nearest police-station or to any Magistrate of the first class.

V of 1898.

(3) Where any person has been taken or sent to a police-station or to a Magistrate under sub-section (2), the provisions of the <sup>1</sup>Code of Criminal Procedure, 1898, shall, save as otherwise provided by section 7, apply to him as though he had been taken to such police-station or Magistrate without being taken or sent before the commanding or other officer.

<sup>2</sup> 7. (1) No Magistrate of the second class shall have jurisdiction to try any person for an offence against this Act.

Restriction  
on trial of  
offences.

(2) No Court shall proceed to the trial of any person for an offence against this Act, except with the consent of the Local Government or the Governor General in Council.

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<sup>1</sup> Genl. Acts, Vol. V.

<sup>2</sup> See second footnote on page 174.

ACT No. XX OF 1889.<sup>1</sup>

[13th December, 1889.]

An Act to amend Act XXXVI of 1889.<sup>2</sup>

WHEREAS it is expedient to extend the authority of the Governor General in Council with respect to the appointment of asylums for the reception and detention of lunatics and with respect to the transfer of any lunatic from any one to any other lunatic asylum in British India ; It is hereby enacted as follows :—

Substitution  
of new section  
for section  
17A, Act  
XXXVI,  
1858.  
Provision  
for provinces  
having in-  
sufficient or  
no asylums.

1. For section 17A of <sup>2</sup> Act XXXVI of 1858 (*an Act relating to Lunatic Asylums*), as amended by Act XVIII of 1886 <sup>2</sup> (*an Act to amend Act XXXVI of 1858*) the following shall be substituted, namely :—

“17A. In either of the following cases, namely :—

- (a) when an Executive Government has not established within its limits a public asylum for the reception and detention of lunatics,
- (b) when it appears to the Governor General in Council that a public asylum established within such limits is not conveniently situated with respect to any part of the territories administered by such Government or does not afford sufficient or, in the case of any class of lunatics, suitable accommodation,

the Governor General in Council may from time to time appoint an asylum in any part of British India beyond the limits of such Government to be an asylum to which any Magistrate or Judge exercising jurisdiction within those limits may send lunatics or any class of lunatics as to an asylum established under this Act for the division in which his jurisdiction is situate.”

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1889, Pt. V, p. 181 ; for Report of the Select Committee, *see* *ibid.*, p. 207, and for Proceedings in Council, *see* *ibid.*, Pt. VI, pp. 142, 145 and 195.

The Act is in force in the Eastern Duars in the Goalpara District, the Garo Hills, the Khasi and Jaintia Hills, the Naga Hills and the North Cachar Hills in the Cachar District as being part of Act 36 of 1858 which was declared in force there under s. 3 of the Scheduled Districts Act, 1874 (14 of 1874), by Notification No. 1242-J., dated 1st April, 1897, *see* E. B. & A. Code, p. 513 ; in British Baluchistan, in which Act 36 of 1858 was declared in force by the British Baluchistan Laws Regulation, 1890 (1 of 1890), Bal. Code ; in the Angul District, in which Act 36 of 1858 was declared in force by the Angul District Regulation, 1894 (1 of 1894), Ben. Code, Vol. I.

It has been declared in force in the Sonthal Parganas under s. 3 of the Sonthal Parganas Settlement Regulation (3 of 1872), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), Ben. Code, Vol. I.

The Act is in force in Upper Burma (except the Shan States) as being part of the original Act 36 of 1858, declared in force there by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

It had been previously extended there by notification under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), Genl. Acts, Vol. II, *see* Gazette of India, 1892, Pt. I, p. 94.

<sup>2</sup> Genl. Acts, Vols. I and III, respectively.

2. After section 17B of the said Act XXXVI of 1858, the following section shall be added, namely :—

Addition of new section after section 17B, Act XXXVI, 1858.

“17C. Any lunatic may be removed from any lunatic asylum established or licensed under this Act, by order of an Executive Government, to any other such asylum within the limits of such Government, and, by order of the Governor General in Council, to any other asylum in any part of British India.”

Removal of lunatics from one asylum to another.

3. [*Repeal of section 11, Act XXXVI of 1858.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

# ACT No. I OF 1890.<sup>1</sup>

[14th February, 1890.]

An Act to make better provision for recovering certain public demands.

WHEREAS it is expedient to make better provision for recovering certain public demands ; It is hereby enacted as follows :—

1. (1) This Act may be called the Revenue Recovery Act, 1890.

Title, extent and commencement.

(2) It extends to the whole of British India,<sup>2</sup> \* \* \* \* and British Baluchistan ; and

(3) It shall come into force at once.

2. In this Act, unless there is something repugnant in the subject or context,—

Definitions.

(1) “district” includes a presidency-town :

(2) “Collector” means the chief officer in charge of the land-revenue administration of a district ; and

(3) “defaulter” means a person from whom an arrear of land-revenue or a sum recoverable as an arrear of land-revenue, is due, and includes a

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1887, Pt. V, p. 128 ; for Report of the Select Committee, see *ibid.*, 1890, Pt. V, p. 11 and for Proceedings in Council, see *ibid.*, 1887, Pt. VI, pp. 66 and 67, and *ibid.*, 1890, Pt. VI, pp. 7 and 12.

This Act has been declared in force in the Santhal Parganas under s. 3 of the Santhal Parganas Settlement Regulation (3 of 1872) as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (3 of 1899), Ben. Code, Vol. I.

It has been declared in force in the Angul District by the Angul District Regulation, 1894 (1 of 1894), Ben. Code, Vol. I.

It has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

It has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1890 (1 of 1890), Bal. Code.

<sup>2</sup> The words “inclusive of Upper Burma” were repealed by the Fifth Schedule to the Burma Laws Act, 1898 (13 of 1898), Bur. Code.



person who is responsible as surety for the payment of any such arrear or sum.

Recovery of public demands by enforcement of process in other districts than those in which they become payable.

3. (1) Where an arrear of land-revenue, or a sum recoverable as an arrear of land-revenue, is payable to a Collector by a defaulter being or having property in a district other than that in which the arrear accrued or the sum is payable, the Collector may send to the Collector of that other district a certificate in the form as nearly as may be of the schedule, stating—

(a) the name of the defaulter and such other particulars as may be necessary for his identification, and

(b) the amount payable by him and the account on which it is due.

(2) The certificate shall be signed by the Collector making it, and, save as otherwise provided by this Act, shall be conclusive proof of the matters therein stated.

(3) The Collector of the other district shall, on receiving the certificate, proceed to recover the amount stated therein as if it were an arrear of land-revenue which had accrued in his own district.

Remedy available to person denying liability to pay amount recovered under last foregoing section.

4. (1) When proceedings are taken against a person under the last foregoing section for the recovery of an amount stated in a certificate, that person may, if he denies his liability to pay the amount or any part thereof and pays the same under protest made in writing at the time of payment and signed by him or his agent, institute a suit for the repayment of the amount or the part thereof so paid.

(2) A suit under sub-section (1) must be instituted in a Civil Court having jurisdiction in the local area in which the office of the Collector who made the certificate is situate, and the suit shall be determined in accordance with the law in force at the place where the arrear accrued or the liability for the payment of the sum arose.

(3) In the suit the plaintiff may, notwithstanding anything in the last foregoing section, but subject to the law in force at the place aforesaid, give evidence with respect to any matter stated in the certificate.

Recovery by Collectors of sums recoverable as arrears of revenue by other public officers or by local authorities.

5. Where any sum is recoverable as an arrear of land-revenue by any public officer other than a Collector or by any local authority, the Collector of the district in which the office of that officer or authority is situate shall, on the request of the officer or authority, proceed to recover the sum as if it were an arrear of land-revenue which has accrued in his own district, and may send a certificate of the amount to be recovered to the Collector of another district under the foregoing provisions of this Act, as if the sum were payable to himself.

Property.

6. (1) When the Collector of a district receives a certificate under this

Act, he may issue a proclamation prohibiting the transfer or charging of any immoveable property belonging to the defaulter in the district.

liable to  
sale under  
this Act.

(2) The Collector may at any time, by order in writing, withdraw the proclamation, and it shall be deemed to be withdrawn when either the amount stated in the certificate has been recovered or the property has been sold for the recovery of that amount.

(3) Any private alienation of the property or of any interest of the defaulter therein, whether by sale, gift, mortgage or otherwise, made after the issue of the proclamation and before the withdrawal thereof, shall be void as against the Government and any person who may purchase the property at a sale held for the recovery of the amount stated in the certificate.

(4) Subject to the foregoing provisions of this section, when proceedings are taken against any immoveable property under this Act for the recovery of an amount stated in a certificate, the interests of the defaulter alone therein shall be so proceeded against, and no incumbrances created,<sup>1</sup> grants made or contracts entered into by him in good faith shall be rendered invalid by reason only of proceedings being taken against those interests.

(5) A proclamation under this section shall be made by beat of drum or other customary method and by the posting of a copy thereof on a conspicuous place in or near the property to which it relates.

7. Nothing in the foregoing sections shall be construed—

- (a) to impair any security provided by, or affect the provisions of, any other enactment for the time being in force for the recovery of land-revenue or of sums recoverable as arrears of land-revenue, or
- (b) to authorise the arrest of any person for the recovery of any tax payable to the corporation, commissioner, committee, board, council or person having authority over a municipality under any enactment for the time being in force.

Saving of  
local laws  
relating to  
revenue.

8. When this Act has been applied to any local area which is under the administration of the Governor General in Council but which is not part of British India, an arrear of land-revenue accruing in that local area, or a sum recoverable as an arrear of land-revenue and payable to a Collector or other public officer or to a local authority in that local area, may be recovered under this Act in British India.<sup>1</sup>

Recovery  
in British  
India of  
certain pub-  
lic demands  
arising  
beyond  
British  
India.

<sup>1</sup> See definition in the General Clauses Act, 1897, (10 of 1897), s. 3 (20), *infra*.

<sup>2</sup> For notification applying the Act to all territories which are under the administration of the Governor General in Council but which are not part of British India, including the territories for the time being administered by the Agent to the Governor General in Baluchistan as such Agent, see No. 1415-I., dated 30th April, 1890, Western India volume of Macpherson's Lists of British Enactments in force in Native States.

## THE SCHEDULE.

## CERTIFICATE.

[See section 3, sub-section (1).]

From

The Collector of

To

The Collector of

Dated the . of 18 .

The sum of Rs.  
account of

is payable on

by

, son of

, resident

of

, who is believed (to be

at

) (to have property consisting

of

at

) in your

district.

Subject to the provisions of the Revenue Recovery Act, 1890, the said sum is recoverable by you as if it were an arrear of land-revenue which had accrued in your own district, and you are hereby desired so to recover it and to remit it to my office at

*A. B.,**Collector of*

ACT No. II OF 1890.<sup>1</sup>

[14th February, 1890.]

An Act to amend Acts XVII of 1864,<sup>2</sup> X of 1865,<sup>2</sup> II of 1874<sup>3</sup> and V of 1881.<sup>4</sup>

X of 1865.  
II of 1874.  
V of 1881.

WHEREAS it is expedient to amend Act XVII of 1864<sup>2</sup> (*an Act to constitute an Office of Official Trustee*), the Indian Succession Act, 1865,<sup>2</sup> the Administrator General's Act, 1874,<sup>3</sup> and the Probate and Administration Act, 1881<sup>4</sup>; It is hereby enacted as follows :—

*Act XVII of 1864.*<sup>2</sup>

1. In section 1 of Act XVII of 1864, before the definition of the expression “ High Court,” the following shall be inserted, namely :—

Addition to  
section 1,  
Act XVII,  
1864.

“The word ‘ Government ’ shall mean, in relation to the Presidency of Fort William in Bengal, the Governor General in Council ; in relation to the Presidency of Fort St. George, the Governor of Fort St. George in Council ; and in relation to the Presidency of Bombay, the Governor of Bombay in Council :”.

“ Govern-  
ment.”

2. After section 1 of the said Act the following shall be inserted, namely :—

Insertion of  
new section  
after section  
1, Act XVII,  
1864.

<sup>1</sup> Short title, “ The Probate and Administration Act, 1890,” *see* the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

For Statement of Objects and Reasons, *see* Gazette of India, 1889, p. 195; for Report of the Select Committee, *see* *ibid*, 1890, Pt. V, p. 15 and for Proceedings in Council, *see* *ibid*, 1889, Pt. VI, pp. 145 and 149 and *ibid*, 1890, Pt. VI, p. 16.

For Civil Rules of practice by the High Court, Madras, under this Act, the Civil Procedure Code and certain other Acts, for observance by the Subordinate Civil Courts of that Presidency, except the Madras Small Cause Court, *see* Fort St. George Gazette, 1905, Supplement, p. 1.

Ss. 9 to 15 of the Act have been declared in force in the Santhál Parganas by s. 3 of the Santhál Parganas Settlement Regulation (3 of 1872) as amended by the Santhál Parganas Justice and Laws Regulation, 1899 (3 of 1899), Ben. Code, Vol. I, *see* Calcutta Gazette, 1892, Pt. I, p. 448.

So far as this Act amends Acts 10 of 1865, 2 of 1874, and 5 of 1881, it is in force in Upper Burma (except the Shan States) as being part of those Acts, declared in force there by the Burma Laws Act, 1898 (13 of 1898), *see* the First Schedule to the Act, Bur. Code.

The whole Act, 2 of 1890, however, as a separate Act had been previously extended there by notification under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), Genl. Acts, Vol. II, *see* Gazette of India, 1892, Pt. I, p. 94.

So far as it amends the Administrator General's Act, 1874 (2 of 1874), it has been extended to the Shan States, *see* the Shan States Laws and Criminal Justice Order, 1895, Bur. Gazette, 1895, Pt. I, p. 262.

<sup>2</sup> Genl. Acts, Vol. I.

<sup>3</sup> Genl. Acts, Vol. II.

<sup>4</sup> Genl. Acts, Vol. III.

Construction  
of references  
to Presiden-  
cies.

"2. In this Act references to the Presidency of Fort William in Bengal, the Presidency of Fort St. George and the Presidency of Bombay shall, as regards all persons for whom the Governor General in Council has for the time being power to make laws and regulations, be read as references to the Presidency of Bengal, the Presidency of Madras and the Presidency of Bombay, respectively, as those expressions are severally defined in the law for the time being in force relating to the office and duties of Administrator General."

Substitution  
of new sec-  
tion for sec-  
tion 5.

3. For section 5 of the said Act the following shall be substituted, namely :—

Appointment,  
suspension  
and removal  
of Official  
Trustees.

"5. Every Official Trustee appointed under this Act shall be appointed and may be suspended or removed from his office by the Government."

Amendment  
of section 6,  
Act XVII,  
1864.

4. In section 6 of the said Act, for the words "Chief Justice by whom he is appointed," the word "Government" shall be substituted.

Amendment  
of section 7,  
Act XVII,  
1864.

5. For the portion of section 7 of the said Act beginning with the words "It shall be lawful for the Chief Justice of the High Court" and ending with the words "it shall be lawful for the Chief Justice to appoint some person to officiate as Official Trustee" the following shall be substituted, namely :—

"It shall be lawful for the Government from time to time to grant leave of absence to the Official Trustee, but subject always to such and the like rules as may be for the time being in force as to leave of absence of officers attached to the High Court. Whenever any Official Trustee shall obtain leave of absence, it shall be lawful for the Government to appoint some person to officiate as Official Trustee."

Addition to  
section 11,  
Act XVII,  
1864.

6. To Section 11 of the said Act the following shall be added, namely :—

"Provided that the High Court, by its order appointing the Official Trustee to be trustee of such property, may, for special reasons to be recorded by the Court, direct that the Official Trustee shall be entitled by way of remuneration in respect of the capital moneys, sums and rents aforesaid, or any of them, to a commission at rates or a rate to be specified in the order and exceeding the rates or rate hereinbefore in this section prescribed."

Addition of  
sections to  
Act XVII,  
1864.

7. To the said Act, after section 32, the following shall be added, namely :—

Compliance

"33. The Official Trustee shall comply with such requisitions as may be

made by the Government for returns and statements, in such form and manner as the Government may deem proper.

with requisitions for returns.

"34. (1) Notwithstanding anything in the foregoing provisions of this Act, the Governor General in Council, upon the occurrence of any vacancy in the office of the Official Trustee of Bengal, may, by notification in the Gazette of India,—

Division of the Presidency of Fort William in Bengal into Provinces.

- (a) divide the Presidency of Fort William in Bengal into so many Provinces as he thinks fit,
- (b) define the limits of each of those Provinces, and
- (c) appoint an Official Trustee for each Province, and, subject to the provisions of this section, the following consequences shall thereupon ensue, namely :—
  - (i) the office of Official Trustee of Bengal shall cease to exist :
  - (ii) the Official Trustee of a Province shall have the like rights and privileges, and perform the like duties, in the territories and dominions included in the Province as the Official Trustee of Bengal had and performed as Official Trustee therein :
  - (iii) the functions of the Government under this Act shall, as regards the territories and dominions included in the Province, be discharged by the Governor General in Council :
  - (iv) the functions of whatsoever kind assigned by the foregoing provisions of this Act to the High Court of Judicature at Fort William in Bengal in respect of the territories and dominions included in a Province shall be discharged by such High Court as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf :
  - (v) in the foregoing provisions of this Act, the word 'Presidency' shall be deemed to include a Province, the expression 'Chief Justice' the Chief Justice, senior Judge, or sole Judge, as the case may be, of a High Court appointed by the Governor General in Council under clause (iv) of this sub-section, and the expression 'Advocate General a Government Advocate or other officer appointed by the Governor General in Council to discharge for a Province the functions under this Act of an Advocate General for a Presidency : and,
  - (vi) generally, the provisions of the foregoing sections and of any other enactment for the time being in force with respect to the Official Trustee of Bengal shall, in relation to a Province, be construed, so far as may be, to apply to the Official Trustee appointed for the Province under this section.

(2) Any proceeding which was commenced before the publication of the notification dividing the Presidency of Fort William in Bengal into Provinces, and to or in which the Official Trustee of Bengal in his representative character was a party or was otherwise concerned, shall be continued as if the notification had not been published, and the Official Trustee of the Province in which the Town of Calcutta is comprised shall for the purposes of the proceeding be deemed to be the successor in office of the Official Trustee of Bengal, and shall hold and execute the trusts of which immediately before the publication of the notification the Official Trustee of Bengal was trustee in all respects as if he were such successor.

(3) The Court of the <sup>1</sup>Recorder of Rangoon shall be deemed to be a High Court for the purposes of clause (iv) of sub-section (1)."

Official Trustee holding office at commencement of this Act.

8. Every person holding the office of Official Trustee at the commencement of this Act shall be deemed to have been appointed under <sup>2</sup>Act XVII of 1864 as amended by this Act.

*The Indian Succession Act, 1865.*<sup>2</sup>

Addition of new section after section 326, Act X, 1865.

9. After section 326 of the <sup>2</sup>Indian Succession Act, 1865, the following shall be inserted, namely :—

X of 1865.

Transfer of assets from British India to executor or administrator in country of domicile for distribution.

"326A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and there have been a grant of probate or letters of administration in British India with respect to the assets there and a grant of administration in the country of domicile with respect to the assets in that country, the executor or administrator, as the case may be, in <sup>3</sup>British India, after having given such notices as are mentioned in section 320 and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

*The Administrator General's Act, 1874.*<sup>4</sup>

Amendment of definitions of "Presi-

10. In clause (b) of the definition of the expression "Presidency of Bengal" in section 3 of the <sup>4</sup>Administrator General's Act, 1874, the word

II of 1874.

<sup>1</sup> Now Chief Court of Lower Burma, see the Lower Burma Courts Act, 1900 (6 of 1900), Bur. Code.

<sup>2</sup> Genl. Acts, Vol. I.

<sup>3</sup> For definition of "British India," see s. 3 (1), General Clauses Act, 1897 (10 of 1897), *infra*.

<sup>4</sup> Genl. Acts, Vol. II.

"Burma" shall be substituted for the words "British Burma", and to clause (a) of the definition of the expression "Presidency of Bombay" in the same section of that Act the words "and under the administration of the Chief Commissioner of British Baluchistan" shall be added.

deney of Bengal" and "Presidency of Bombay" in section 3, Act II, 1874.

IX of 1881. 11. (1) For the first paragraph of section 37 of the said Act, as amended by section 5 of the Administrator General's Act, 1881, beginning with the words "If in cases falling within section 36" and ending with the words "as if such letters had been granted to him," the following shall be substituted, namely :—

Substitution of new paragraph for first paragraph of section 37, Act II, 1874.

X of 1865. "If, in cases falling within section 36, no person claiming otherwise than as a creditor to be entitled to a share of the effects of the deceased, obtains, within three months, a certificate from the Administrator General under the same section, or letters of administration to the estate and effects of the deceased, and such deceased was not a Hindu, Muhammadan, Parsi or Budhist, or exempted under the Indian Succession Act, 1865, section 332, from the operation of that Act, the Administrator General may administer the estate and effects without letters of administration, in the same manner as if such letters had been granted to him ;".

IX of 1881. (2) *Repeal of part of s. 5 of the Administrator General's Act, 1881 (IX of 1881). Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

12. After section 41 of the said Act the following shall be inserted, namely :—

Addition of new section after section 41, Act II, 1874.

"41A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and proceedings for the administration of his estate with respect to assets in British India have been taken under section 36 or section 37, and there has been a grant of administration in the country of domicile with respect to the assets in that country, the holder of the certificate granted under section 36 or section 37, or the Administrator General, as the case may be, after having given such notices as the High Court may by any general rule to be made from time to time prescribe, for creditors and others to send in to him their claims against the estate of the deceased, and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distri-

Transfer of certain assets from British India to executor or administrator in country of domicile for distribution.



buting any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

Addition to  
section 64,  
Act II, 1874

13. To section 64 of the said Act the following shall be added, namely :—

"The District Judge may cause to be paid out of any property of which he or such officer has charge, or out of the proceeds of such property or of any part thereof, such sums as may appear to him to be necessary for all or any of the following purposes, namely :—

(a) the payment of the expenses of the funeral of the deceased and of obtaining probate of his will or letters of administration to his estate and effects,

(b) the payment of wages due for services rendered to the deceased within three months next preceding his death by any labourer, artizan or domestic servant, and

(c) the relief of the immediate necessities of the family of the deceased, and nothing in section 279, section 280 or section 281 of the<sup>1</sup> Indian Succession Act, 1865, or in any other law for the time being in force with respect to rights of priority of creditors of deceased persons, shall be held to affect the validity of any payment so caused to be made." x of 1865.

Addition to  
Part VI,  
Act II, 1874  
Compliance  
with requisitions for  
returns.

14. To Part VI, and after section 66, of the said Act the following shall be added, namely :—

"67. The Administrator General shall comply with such requisitions as may be made by the Government for returns and statements, in such form and manner as the Government may deem proper."

Addition to  
Act II, 1874  
of a Part  
respecting  
the division  
of the Presidency  
of Bengal into  
Provinces.  
Division of  
the Presidency  
of Bengal into  
Provinces.

15. To the said Act, after Part VI and section 67 thereof, the following shall be added, namely :—

## "PART VII.

### DIVISION OF THE PRESIDENCY OF BENGAL INTO PROVINCES.

68. (1) Notwithstanding anything in the foregoing provisions of this Act, the Governor General in Council, upon the occurrence of any vacancy in the office of the Administrator General of Bengal, may, by notification in the Gazette of India,—

(a) divide the Presidency of Bengal, as defined in this Act, into so many Provinces as he thinks fit,

(b) define the limits of each of those Provinces, and

<sup>1</sup> Genl. Acts, Vol. I.

- (c) appoint an Administrator General for each Province,  
and, subject to the provisions of this section, the following consequences shall thereupon ensue, namely :—
- (i) the office of Administrator General of Bengal shall cease to exist :
  - (ii) the Administrator General of a Province shall have the like rights and privileges, and perform the like duties, in the territories and dominions included in the Province as the Administrator General of Bengal had and performed as Administrator General therein :
  - (iii) the functions of the Government under this Act shall, as regards the territories and dominions included in a Province, be discharged by the Governor General in Council :
  - (iv) the functions of whatsoever kind assigned by the foregoing provisions of this Act to the High Court at Calcutta in respect of the territories and dominions included in a Province shall be discharged by such High Court as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf, and probate or letters of administration granted to the Administrator General of the Province by the High Court so appointed shall have the same effect throughout the Presidency of Bengal, as defined in this Act, or, if the Court so directs, throughout British India, as, but for the abolition of the office of Administrator General of Bengal, probate or letters of administration granted to the holder of that office by the High Court at Calcutta would have had :
  - (v) in the foregoing provisions of this Act the word 'Presidency' shall be deemed to include a Province, the expression 'Presidency-town' the place of sitting of a High Court appointed by the Governor General in Council under clause (iv) of this sub-section, and the expression 'Advocate General' a Government Advocate or other officer appointed by the Governor General in Council to discharge for a Province the functions under this Act of an Advocate General for a Presidency :
  - (vi) the provisions of this Act with respect to the commission of the Administrator General of Bengal shall regulate the commission payable to the Administrator General of a Province, and
  - (vii) generally, the provisions of the foregoing sections of this Act with respect to the High Court at Calcutta, and the provisions of those sections or of any other enactment with respect to the Administrator General of Bengal, shall, in relation to a Province, be construed so far as may be, to apply to the High Court and Administrator General, respectively, appointed for the Province under this section.

(2) Any proceeding which was commenced before the publication of the notification dividing the Presidency of Bengal into Provinces and to or in which the Administrator General of Bengal in his representative character was a party or was otherwise concerned, shall be continued as if the notification had not been published, and the Administrator General of the Province in which the Town of Calcutta is comprised shall for the purposes of the proceeding be deemed to be the successor in office of the Administrator General of Bengal.

(3) The <sup>1</sup> Court of the Recorder of Rangoon shall be deemed to be a High Court for the purposes of clause (iv) of sub-section (I).

(4) Notwithstanding any division of the Presidency of Bengal, as defined in this Act, into Provinces under this section, the Administrator General of the Province in which the Town of Calcutta is comprised shall be deemed to be the Administrator General for the whole of the said Presidency for the purposes of the <sup>1</sup>Regimental Debts Act, 1863."

26 & 27  
Vict., c. 57.

*The Probate and Administration Act, 1881.*<sup>2</sup>

16. After section 145 of the <sup>3</sup> Probate and Administration Act, 1881, the following shall be inserted, namely:—

"145A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and there have been a grant of probate or letters of administration in British India with respect to the assets there and a grant of administration in the country of domicile with respect to the assets in that country, the executor or administrator, as the case may be, in British India, after having given such notices as are mentioned in section 139 and after having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

Addition of  
new section  
after section  
145, Act V,  
1881.

Transfer of  
assets from  
British India  
to executor  
or adminis-  
trator in  
country  
of domicile for  
distribution.

<sup>1</sup> Now Chief Court of Lower Burma, see the Lower Burma Courts Act, 1900 (6 of 1900), Bur. Code.

<sup>2</sup> Coll. Stats. Ind., Vol. II.

<sup>3</sup> Genl. Acts, Vol. III.

ACT No. III OF 1890.<sup>1</sup>

[21st February, 1890.]

AN Act to amend Acts VI<sup>2</sup> and VII of 1884.<sup>2</sup>

VI of 1884. WHEREAS it is expedient to amend the <sup>2</sup> Inland Steam-vessels Act, 1884,  
 VII of 1884. and the <sup>2</sup> Indian Steam-ships Act, 1884, in manner hereinafter appearing ;  
 It is hereby enacted as follows :— .

<sup>2</sup>*Inland Steam-vessels Act, 1884.*

VI of 1884. 1. For the definition of “inland water” in section 5, clause (3), of the Inland Steam-vessels Act, 1884, the following shall be substituted, name- Amendment of section 5 (3), Act VI, 1884.  
 ly :—

“(3) ‘inland water’ means any canal, river, lake or navigable water in British India.”

2. After section 8 of the said Act the following shall be inserted, name- Insertion of new section after section 8.  
 ly :—

“8A. Before a survey under this Act is commenced, the owner or master of the steam-vessel to be surveyed shall pay to such officer as the Local Government, from time to time, appoints in this behalf— Fees in respect of surveys.

(a) a fee calculated on the tonnage of the steam-vessel according to the rates in the second schedule hereto annexed, or according to any other prescribed rates ; and,

(b) when the survey is to be made in any place of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee in respect of the expense (if any) of the journey of the surveyor to the place as the Local Government, from time to time, by notification in the official Gazette, directs.”

3. [Repeal of part of section 10 (3), Act VI, 1884.] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

<sup>1</sup> Short title, “The Indian Steam-ships Law Amendment Act, 1890,” see the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1889, Pt. V, p. 154; for Report of the Select Committee, see *ibid.*, 1890, Pt. V, p. 55 and for Proceedings in Council, see *ibid.*, 1889, Pt. VI, pp. 129 and 133, and *ibid.*, 1890, pp. 15 and 20.

As far as this Act amends the Inland Steam-vessels Act, 1884 (6 of 1884), it is in force in Upper Burma (except the Shan States) as being part of the principal Act, declared in force there by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

Ss. 1 to 14 of the Act had been previously extended there by notification under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), Genl. Acts, Vol. II. Gazette of India, 1891, Pt. I, p. 554.

<sup>2</sup> Genl. Acts, Vol. III.

## 4. (1) \* \* \* \* \*

Amendment  
of, and addi-  
tion to, sec-  
tion 11, Act  
VI, 1884.

(2) To [section 11 of the said Act]<sup>3</sup> the following sub-section shall be added, namely :—

“(4) The Local Government may, from time to time, delegate,—

- (a) with the previous sanction of the Governor General in Council, to any person, by name or as holding an office, the function, assigned to the Local Government by sub-section (1), of granting a certificate of survey under that sub-section ;
- (b) of its own authority, to any person, by name or as holding an office, the function assigned to the Local Government by sub-section (3), of causing notice to be given of a certificate of survey being ready for delivery :

Provided, with respect to clause (a) of this sub-section, that no delegation of the function mentioned in that clause shall be construed to authorise the grant of a certificate of survey by the surveyor who gave the declaration of survey under section 9.”

5. [*Repeal of section 12, Act VI, 1884.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

Amendment  
of section 19,  
Act VI, 1884.

6. In section 17 of the said Act, between the word “which” and the word “granted,” in both places where the expression “which granted” occurs, the words “or whose delegate” shall be inserted.

Amendment  
of section 19,  
Act VI, 1884.

7. In section 19, sub-section (1), of the said Act, after the words “on the application of the owner or master,” the words “and the payment by him of such fee not exceeding twice the amount of the fee for the previous survey, as the Local Government may require.” shall be inserted.

Amendment  
of section 21,  
Act VI, 1884.

8. In section 21, sub-section (2), clause (d), of the said Act, for the words “for certificates of survey” the words “in respect of surveys” shall be substituted.

9. [*Insertion of new section after section 25, Act VI, 1884.*] *Rep. by the Inland Steam-vessels Act (1884) Amendment Act, 1891 (XIII of 1891).*

10. [*Amendment of section 26, Act VI, 1884.*] *Rep. by the Inland Steam-vessels Act (1884) Amendment Act, 1891 (XIII of 1891).*

11. [*Addition to section 29, Act VI, 1884.*] *Rep. by the Inland Steam-vessels Act (1884) Amendment Act, 1891 (XIII of 1891).*

<sup>1</sup> Sub-sec. (1), which repealed the words “fees and other” in s. 11 (1) of the Inland Steam-vessels Act, 1884 (6 of 1884), was repealed by the Repealing and Amending Act, 1891 (12 of 1891).

<sup>2</sup> The words “section 11 of the said Act” were substituted for the words “the same section” by the Amending Act, 1891 (12 of 1891), *infra*.

12. To Chapter VII of the said Act the following shall be added, namely :—

Addition to Chapter VII, Act VI, 1884.

“ 51A. (1) The Local Government may also make rules for the protection of passengers in inland steam-vessels and may by such rules require, among other matters, a sufficient quantity of fresh water to be provided free of charge in such vessels for the use of passengers, and the prices of passenger-tickets to be printed or otherwise denoted on such tickets.

Power for Local Government to make rules for protection of passengers.

(2) Any rule under this section may contain a provision that any owner, master or passenger committing a breach of it shall be punished with fine which may extend to fifty rupees.”

13. After section 54 of the said Act the following shall be inserted, namely :—

Insertion of new section after section 54, Act VI, 1884.

“ 54A. If an inland steam-vessel has on board thereof or on or in any part thereof a number of passengers which is greater than the number of passengers set forth in the certificate of survey as the number which the vessel or the part thereof is, in the judgment of the surveyor, fit to carry, the owner and master shall, for every passenger over and above that number, be each liable to a fine which may extend to ten rupees.”

Penalty for having excessive number of passengers on board.

14. In the second schedule to the said Act, for the words and figures “ See section 12 ” the words, figure and letter “ See section 8A ” shall be substituted.

Amendment of heading of second schedule, Act VI, 1884.

*<sup>1</sup>Indian Steam-ships Act, 1884.*

15. After section 10 of the said Act the following shall be inserted, namely :—

Insertion of new section after section 10, Act VII, 1884.

“ 10A. Before a survey under this Act is commenced, the owner or master of the steam-ship to be surveyed shall pay to such officer as the Local Government, from time to time, appoints in this behalf—

Fees in respect of surveys.

(a) a fee calculated on the tonnage of the steam-ship according to the rates in the schedule hereto annexed or according to any other prescribed rates ; and

(b) when the survey is to be made in any port of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of the expense (if any) of the journey of the surveyor to the port as the Local Government, from time to time, by notification in the official Gazette, directs.”

16. [Repeal of part of section 12 (3), Act VII, 1884.] Rep. by the Repealing and Amending Act, 1891 (XII of 1891).

17. (1) \* \* \* \* \*

Amendment  
of, and addi-  
tion to, sec-  
tion 13, Act  
VII, 1884.

(2) To <sup>2</sup>[section 13 of the said Act] the following sub-section shall be added, namely:—

“(4) The Local Government may, from time to time, delegate,—

(a) with the previous sanction of the Governor General in Council, to any person by name or as holding an office, the function assigned to the Local Government by sub-section (1), of granting a certificate of survey under that sub-section ;

(b) of its own authority, to any person by name or as holding an office, the function, assigned to the Local Government by sub-section (3), of causing notice to be given of a certificate of survey being ready for delivery :

Provided with respect to clause (a) of this sub-section, that no delegation of the function mentioned in that clause shall be construed to authorise the grant of a certificate of survey by the surveyor who gave the declaration of survey under section 11.”

18. [Repeal of section 14, Act VII, 1884.] Rep. by the Repealing and Amending Act, 1891 (XII of 1891).

Amendment  
of section 19,  
Act VII,  
1884.

19. In section 19 of the said Act between the word “ which ” and the word “ granted ” in both the places where the expression “ which granted ” occurs, the words “ or whose delegate ” shall be inserted.

Amendment  
of section 21,  
Act VII,  
1884.

20. In section 21, sub-section (1), of the said Act, after the words “ on the application of the owner or master,” the words “ and the payment by him of such fee, not exceeding twice the amount of the fee for the previous survey, as the Local Government may require,” shall be inserted.

Amendment  
of section 24,  
Act VII,  
1884.

21. In section 24, sub-section (2), clause (d), for the words “ for certificates of survey ” the words “ in respect of surveys ” shall be substituted.

Amendment  
of heading to  
schedule, Act  
VII, 1884.

22. In the schedule to the said Act, for the words and figures “ See section 14 ” the words, figures and letter “ See section 10A ” shall be substituted.

<sup>1</sup> Sub-sec. (1), which repealed the words “ fees and other ” in s. 13 (1) of the Indian Steamship Act, 1884 (7 of 1884), was repealed by the Repealing and Amending Act, 1891 (12 of 1891).

<sup>2</sup> The words “ section 13 of the said Act ” was substituted for the words “ the same section ” by the Amending Act, 1891 (12 of 1891), *infra*.

ACT No. V of 1890.<sup>1</sup>

[28th February, 1890.]

An Act to amend the <sup>2</sup>Indian Forest Act, 1878, and the <sup>3</sup>Burma Forest Act, 1881.

VII of 1878. WHEREAS it is expedient to amend the <sup>2</sup>Indian Forest Act, 1878, and the  
 XIX of 1881. <sup>3</sup>Burma Forest Act, 1881; It is thereby enacted as follows :—

1. (1) This Act may be called the Forest Act, 1890 : and
- (2) It shall come into force at once.

Title and  
commence-  
ment.

*Indian Forest Act, 1878.*

VII of 1878. 2. (1) For the definition of "Tree" in section 2 of the Indian Forest Act, 1878, the following shall be substituted, namely :—

Amendment  
of section 2,  
Act VII,  
1878.

" 'Tree' includes palms, bamboos, stumps, brushwood and canes : "

(2) For the definition of "Timber" in the same section the following shall be substituted, namely :—

" 'Timber' includes trees when they have fallen or have been felled, and all wood, whether cut up or fashioned or hollowed out for any purpose or not : "

(3) For the definition of "Forest-produce" in the same section the following shall be substituted, namely :—

" 'forest-produce' includes—

(a) the following, whether found in, or brought from, a forest or not, that is to say :—

timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers and myrabolams, and

(b) the following when found in, or brought from a forest, that is to say :—

(i) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned of trees,

(ii) plants not being trees (including grass, creepers, reeds and moss) and all parts or produce of such plants,

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1889, Pt. V, p. 201; for Report of the Select Committee, see *ibid.*, 1890, Pt. V, p. 59 and for Proceedings in Council, see *ibid.*, 1889, Pt. VI, pp. 150 and 154, and *ibid.*, 1890, Pt. VI, pp. 16 and 25.

Ss. 1 (1) and 2 and 4 of this Act have been declared in force in the Santhal Parganas under s. 3 of the Santhal Parganas Settlement Regulation (3 of 1872) as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (3 of 1899), Ben. Code, Vol. I.

It is in force in the Angul District so far as it amends the Indian Forest Act, 1878 (7 of 1878), as being part of that Act which was extended to that district by the Angul District Regulation, 1894 (1 of 1894), Ben. Code, Vol. I.

<sup>2</sup> Genl. Acts, Vols. II and III respectively.

<sup>3</sup> For Act 19 of 1881, see Bur. Code.



(iii) wild animals, and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and

(iv) peat, surface-soil, rock, and minerals (including limestone, laterite, mineral oils, and all products of mines, or quarries):”.

Amendment  
of section 4,  
Act VII,  
1878.

3. For clause (b) of section 4 of the said Act the following shall be substituted, namely :—

“ (b) specifying as nearly as possible the situation and limits of such land ; and. ”

Addition to  
section 5,  
Act VII,  
1878.

4. To section 5 of the said Act the words “ except in accordance with rules prescribed by the Local Government ” shall be added.

Amendment  
of section 6,  
Act VII,  
1878.

5. For clause (a) of section 6 of the said Act the following shall be substituted, namely,—

“ (a) specifying as nearly as possible the situation and limits of the proposed forest ;”.

Addition of  
new section  
after section  
9, Act VII,  
1878.

6. After section 9 of the said Act the following shall be inserted, namely :—

Treatment of  
claims relating  
to practice of  
shifting cultivation.

“ 9A. (1) In the case of a claim relating to the practice of shifting cultivation, the Forest-Settlement-officer shall record a statement setting forth the particulars of the claim and of any local rule or order under which the practice is allowed or regulated, and submit the statement to the Local Government together with his opinion as to whether the practice should be permitted or prohibited wholly or in part.

(2) On receipt of the statement and opinion the Local Government may make an order permitting or prohibiting the practice wholly or in part.

(3) If such practice is permitted wholly or in part, the Forest-Settlement-officer may arrange for its exercise—

(a) by altering the limits of the land under settlement so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimants, or

(b) by causing certain portions of the land under settlement to be separately demarcated, and giving permission to the claimants to practise shifting cultivation therein under such conditions as he may prescribe.

All arrangements made under this sub-section shall be subject to the sanction of the Local Government.

(4) The practice of shifting cultivation shall in all cases be deemed a

privilege subject to control, restriction and abolition by the Local Government.

7. For clause (b) of section 25 of the said Act the following shall be substituted, namely :—

Amendment  
of section  
25, Act VII,  
1878.

“(b) sets fire to a reserved forest, or, in contravention of any rules made by the Local Government, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest ;”.

8. (1) In the heading of Chapter VII of the said Act, for the words “ OF THE DUTY ON TIMBER ” the words “ OF THE DUTY ON TIMBER AND OTHER FOREST-PRODUCE ” shall be substituted.

Amendment  
of Chapter  
VII and  
VIII, Act  
VII, 1878.

(2) In section 39 of the said Act, after the word “ timber ” in both places where the word occurs, the words “ or other forest-produce ” shall be inserted.

(3) In clause (a) of section 41 of the said Act, for the words “ and other ” the words “ or other ” shall be substituted.

(4) To section 41 of the said Act the following shall be added, namely :—  
“ The Local Government may direct that any rule made under this section shall not apply to any specified class of timber or other forest-produce or to any specified local area.”

Addition to  
section 41,  
Act VII,  
1878.

9. In section 47 of the said Act the words “ within three months ” shall be substituted for the words “ within two months ”.

Amendment  
of section 47,  
Act VII,  
1878.

10. To section 48 of the said Act, after the word “ encumbrances ” the words “ not created by him ” shall be added.

Addition to  
section 48,  
Act VII,  
1878.

11. In section 56 of the said Act, for the words “ whom he deems to be entitled to the same ” the words “ whom the Magistrate deems to be entitled to the same ” shall be substituted.

Amendment  
of section 56,  
Act VII,  
1878.

12. In section 63 of the said Act, after the words “ before the Magistrate having jurisdiction in the case ” the words “ or to the officer in charge of the nearest police-station ” shall be added.

Amendment  
of section 63,  
Act VII,  
1878.

13. (1) For section 67 of the said Act the following shall be substituted, namely :—

Amendment  
of section 67,  
Act VII,  
1878.

“ 67. (1) The Local Government may, from time to time, by notification in the official Gazette, empower a Forest-officer by name, or as holding an office,—

Power to  
compound  
offences.

(a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an

offence specified in section 61 or section 62, a sum of money by way of compensation for the offence which such person is suspected to have committed, and,

- (b) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(2) On the payment of such sum of money, or such value, or both, as the case may be to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.

(3) A Forest-officer shall not be empowered under this section unless he is a Forest-officer of a rank not inferior to that of a ranger and is in receipt of a monthly salary amounting to at least one hundred rupees, and the sum of money accepted as compensation under sub-section (1), clause (a), shall in no case exceed the sum of fifty rupees."

Addition of  
new section  
after section  
83, Act VII,  
1878.

14. After section 83 of the said Act the following shall be added, namely :—

Recovery of  
penalties due  
under bond.

" 84. When any person, in compliance with any rule under this Act, binds himself by any instrument to perform any duty or act, or covenants by any instrument that he, or that he and his servants and agents, will abstain from any act, the whole sum mentioned in such instrument as the amount to be paid in case of a breach of the conditions thereof may, notwithstanding anything in section 74 of the <sup>1</sup> Indian Contract Act, 1872, be recovered from him in case of such breach as if it were an arrear of land-revenue." IX of 1872.

15-22. [*Amendment of the Burma Forest Act, 1881 (XIX of 1881).*]  
Not reproduced in this volume as applying only to Burma, see Bur. Code.

<sup>1</sup> Genl. Acts. Vol. II.

## ACT No. VI OF 1890.

[7th March, 1890.]

An Act to provide for the Vesting and Administration of Property held in trust for charitable purposes.

WHEREAS it is expedient to provide for the vesting and administration of property held in trust for charitable purposes ; It is hereby enacted as follows :—

1. (1) This Act may be called the Charitable Endowments Act, 1890.

Title, extent  
and com-  
mencement.

(2) It extends to the whole of British India, inclusive of \* \* \* \* 2  
British Baluchistan ; and

(3) It shall come into force on the first day of October, 1890.

2. In this Act, “ charitable purpose ” includes relief of the poor, educa-  
tion, medical relief and the advancement of any other object of general  
public utility, but does not include a purpose which relates exclusively to  
religious teaching or worship.

Definition.

3. (1) The Governor General in Council may 3 appoint an officer of the  
Government by the name of his office to be Treasurer of Charitable Endow-  
ments for the territories subject to any Local Government.

Appointment  
and incor-  
poration of  
Treasurer of  
charitable  
Endow-  
ments.

(2) Such Treasurer shall, for the purposes of taking, holding and trans-  
ferring moveable or immoveable property under the authority of this Act,  
be a corporation sole by the name of the Treasurer of Charitable Endowments  
for the territories subject to the Local Government, and, as such Treasurer,  
shall have perpetual succession and a corporate seal, and may sue and be sued  
in his corporate name.

4. (1) Where any property is held or is to be applied in trust for a  
charitable purpose, the Local Government, if it thinks fit, may, on applica-

Orders vest-  
ing property  
in Treasurer.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1889, Pt. V, p. 187; for Report of the Select Committee, see *ibid.*, 1890, p. 65 and for Proceedings in Council, see *ibid.*, 1889, Pt. VI, pp. 117 and 190, and 1890, *ibid.*, Pt. VI, p. 37.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), Bur. Code.

The Act has been declared in force in the Santhal Parganas under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (III of 1899), Ben. Code, Vol. I.

<sup>2</sup> The words “ Upper Burma, and ” were repealed by the Fifth Schedule of the Burma Laws Act, 1898 (XIII of 1898), Bur. Code.

<sup>3</sup> For officers appointed under the powers conferred by this section, see Genl. Stat. R. & O., Vol. III.

For notification appointing the Accountant-General, Punjab, to be the Treasurer of Charitable Endowments for the North-West Frontier Province, see Gazette of India, 1901, Pt. I, p. 936.

tion made as hereinafter mentioned, and subject to the other provisions of this section, order, by <sup>1</sup> notification in the official Gazette, that the property be vested in the Treasurer of Charitable Endowments on such terms as to the application of the property or the income thereof as may be agreed on between the Local Government and the person or persons making the application, and the property shall thereupon so vest accordingly.

(2) When any property has vested under this section in a Treasurer of Charitable Endowments, he is entitled to all documents of title relating thereto.

(3) A Local Government shall not make an order under sub-section (1) for the vesting in a Treasurer of Charitable Endowments of any securities for money, except the following, namely :—

- (a) promissory notes, debentures, stock and other securities of the Government of India, or of the United Kingdom of Great Britain and Ireland ;
- (b) bonds, debentures and annuities charged by the Imperial Parliament on the revenues of India ;
- (c) stock or debentures of, or shares in, Railway or other Companies, the interest whereon has been guaranteed by the Secretary of State for India in Council ;
- (d) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by an Act of a legislature established in British India ;
- (e) a security expressly authorised by any order which the Governor-General in Council may make in this behalf.

(4) An order under this section vesting property in a Treasurer of Charitable Endowments shall not require or be deemed to require him to administer the property, or impose or be deemed to impose upon him the duty of a trustee with respect to the administration thereof.

<sup>2</sup> 5. (1) On application made as hereinafter mentioned, and with the concurrence of the person or persons making the application, the Local Government, if it thinks fit, may settle a scheme for the administration of any

Schemes for administration of property vested in the Treasurer.

<sup>1</sup> For notifications issued under this section in conjunction with s. 5 for—

(1) Bengal, *see* Ben. Stat. R. & O., Vol. II.

(2) Bombay, *see* Bom. R. & O., Vol. I.

(3) Madras, *see* Mad. R. & O., Vol. I.

(4) Punjab, *see* Punj. List of Local R. & O.

(5) The United Provinces of Agra and Oudh, *see* U. P. List of Local R. & O., Vol. I, Pt. I.  
*See also note under s. 7 (1).*

<sup>2</sup> For notifications issued under this section and in conjunction with s. 4 in different provinces, *see* above footnote.

property which has been or is to be vested in the Treasurer of Charitable Endowments, and may in such scheme appoint, by name or office, a person or persons, not being or including such Treasurer, to administer the property.

(2) On application made as hereinafter mentioned, and with the concurrence of the person or persons making the application, the Local Government may, if it thinks fit, modify any scheme settled under this section or substitute another scheme in its stead.

(3) A scheme settled, modified or substituted under this section shall, subject to the other provisions of this section, come into operation on a day to be appointed by the Local Government in this behalf, and shall remain in force so long as the property to which it relates continues to be vested in the Treasurer of Charitable Endowments or until it has been modified or another such scheme has been substituted in its stead.

(4) Such a scheme, when it comes into operation, shall supersede any decree or direction relating to the subject-matter thereof in so far as such decree or direction is in any way repugnant thereto, and its validity shall not be questioned in any Court, nor shall any Court give, in contravention of the provisions of the scheme or in any way contrary or in addition thereto a decree or direction regarding the administration of the property to which the scheme relates.

(5) In the settlement of such a scheme effect shall be given to the wishes of the author of the trust so far as they can be ascertained, and, in the opinion of the Local Government, effect can reasonably be given to them.

(6) Where a scheme has been settled under this section for the administration of property not already vested in the Treasurer of Charitable Endowments, it shall not come into operation until the property has become so vested.

6. (1) The application referred to in the two last foregoing sections must be made,—

Mode of  
applying for  
vesting orders  
and schemes.

- (a) if the property is already held in trust for a charitable purpose, then by the person acting in the administration of the trust, or, where there are more persons than one so acting, then by those persons or a majority of them; and
- (b) if the property is to be applied in trust for such a purpose, then by the person or persons proposing so to apply it.

(2) For the purposes of this section the executor or administrator of a deceased trustee of property held in trust for a charitable purpose shall be deemed to be a person acting in the administration of the trust.

Exercise by Governor General in Council of powers of Local Government.

7. (1) The Governor General in Council may exercise all or any of the powers conferred on the Local Government by sections 4 and 5.

(2) When the Governor General in Council has signified to the Local Government his intention of exercising any of those powers with respect to any property, that Government shall not, without his previous sanction, exercise them with respect thereto.

Bare trusteeship of Treasurer.

8. (1) Subject to the provisions of this Act, a Treasurer of Charitable Endowments shall not, as such Treasurer, act in the administration of any trust whereof any of the property is for the time being vested in him under this Act.

(2) Such Treasurer shall keep a separate account of each property for the time being so vested in so far as the property consists of securities for money, and shall apply the property or the income thereof in accordance with the provision made in that behalf in the vesting order under section 4 or in the scheme, if any, under section 5, or in both those documents.

(3) In the case of any property so vested other than securities for money, such Treasurer shall, subject to any special order which he may receive from the authority by whose order the property became vested in him, permit the persons acting in the administration of the trust to have the possession, management and control of the property, and the application of the income thereof, as if the property had been vested in them.

Annual publication of list of properties vested in Treasurer.

9. A Treasurer of Charitable Endowments shall cause to be published annually in the local official Gazette, at such time as the Local Government may direct, a list of all properties for the time being vested in him under this Act and an abstract of all accounts kept by him under sub-section (2) of the last foregoing section.

Limitation of functions and powers of Treasurer

10. (1) A Treasurer of Charitable Endowments shall always be a sole trustee, and shall not, as such Treasurer, take or hold any property otherwise than under the provisions of this Act, or, subject to those provisions, transfer any property vested in him except in obedience to a decree divesting him of the property, or in compliance with a direction in that behalf issuing from the authority by whose order the property became vested in him.

(2) Such a direction may require the Treasurer to sell or otherwise dispose of any property vested in him, and, with the sanction of the authority issuing the direction, to invest the proceeds of the sale or other disposal of

<sup>1</sup> For notification in exercise of power conferred by s. 7 in conjunction with s. 4, as to the Indian People's Famine Trust and rules for the administration of the Fund, see Genl. Stat. R. & O., Vol. III.

the property in any such security for money as is mentioned in section 4, sub-section (3), clause (a), (b), (c), (d) or (e), or in the purchase of immoveable property.

(3) When a Treasurer of Charitable Endowments is divested, by a direction of the Local Government or the Governor General in Council under this section, of any property, it shall vest in the person or persons acting in the administration thereof and be held by him or them on the same trusts as those on which it was held by such Treasurer.

11. If the office held by an officer of the Government who has been appointed to be a Treasurer of Charitable Endowments is abolished or its name is changed, the Governor General in Council may appoint the same or another officer of the Government by the name of his office to be such Treasurer, and thereupon the holder of the latter office shall be deemed for the purposes of this Act to be the successor in office of the holder of the former office.

Provision for continuance of office of Treasurer in certain contingencies.

12.<sup>1</sup> If by reason of an alteration of the limits of the territories subject to a Local Government, or for any other reason, it appears to the Governor General in Council that any property vested in a Treasurer of Charitable Endowments should be vested in another such Treasurer, he may direct that the property shall be so vested, and thereupon it shall vest in that other Treasurer and his successors as fully and effectually for the purposes of this Act as if it had been originally vested in him under this Act.

Transfer of property from one Treasurer to another.

13. The Governor General in Council may frame forms for any proceedings under this Act for which he considers that forms should be provided, and may make such <sup>2</sup> rules consistent with this Act as he may deem expedient for—

Power to frame forms and make rules.

- (a) prescribing the Local Government which is to exercise the powers conferred by this Act in the case of property which is, or is situated, in territories subject to two or more Local Governments ;
- (b) prescribing the fees to be paid to the Government in respect of any property vested under this Act in a Treasurer of Charitable Endowments ;
- (c) regulating the cases and mode in which schemes or any modification thereof are to be published before they are settled or made under section 5 ;

<sup>1</sup> For instance of a notification issued under this section, see *Punj. List of Local R. & O.*

<sup>2</sup> For rules made and forms prescribed under the powers conferred by this section, see *Genl. Stat. R. & O., Vol. III, and N.-W. P. Gazette, 1892, Pt. I, p. 699.*



(d) prescribing the forms in which accounts are to be kept by Treasurers of Charitable Endowments, and the mode in which such accounts are to be audited ; and,

(e) generally, carrying into effect the purposes of this Act.

Indemnity  
to Govern-  
ment and  
Treasurer.

14. No suit shall be instituted against the Government in respect of anything done or purporting to be done under this Act, or in respect of any alleged neglect or omission to perform any duty devolving on the Government under this Act, or in respect of the exercise of, or the failure to exercise, any power conferred by this Act on the Government, nor shall any suit be instituted against a Treasurer of Charitable Endowments except for divesting him of property on the ground of its not being subject to a trust for a charitable purpose, or for making him chargeable with or accountable for the loss or misapplication of any property vested in him, or the income thereof, where the loss or misapplication has been occasioned by or through his wilful neglect or default.

Saving with  
respect to  
Advocate  
General and  
Official  
Trustee.

15. Nothing in this Act shall be construed to impair the operation of section 111 of the Statute 53 George III, Chapter 155, or of any other enactment for the time being in force, respecting the authority of an Advocate General at a presidency to act with respect to any charity, or of sections 8, 9, 10 and 11 of Act No. XVII of 1864 (*an Act to constitute an Office of Official Trustee*) respecting the vesting of property in trust for a charitable purpose in an Official Trustee.

General con-  
trolling  
authority of  
Governor  
General in  
Council.

16. A Local Government shall, in the exercise of its powers under this Act, be subject to the control of the Governor General in Council.

## THE GUARDIANS AND WARDS ACT, 1890.

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(Chap. I.—Preliminary.)

ACT No. VIII OF 1890.<sup>1</sup>

[21st March, 1890.]

# An Act to consolidate and amend the law relating to Guardian and Ward.

WHEREAS it is expedient to consolidate and amend the law relating to guardian and ward ; It is hereby enacted as follows :—

## CHAPTER I.

### PRELIMINARY.

1. (1) This Act may be called the Guardians and Wards Act, 1890.

(2) It extends to the whole of British India, inclusive of \* \* \* \* \* Title, extent and commencement.

British Baluchistan ; and

(3) It shall come into force on the first day of July, 1890.

2. (1) On and from that day the enactments mentioned in the schedule shall be repealed to the extent specified in the third column thereof. Repeal.

(2) But all proceedings had, certificates granted, allowances assigned, obligations imposed, and applications, appointments, orders and rules made under any of those enactments shall, so far as may be, be deemed to have been respectively had, granted, assigned, imposed and made under this Act ; and

(3) Any enactment or document referring to any of those enactments shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

3. This Act, shall be read subject to every enactment heretofore or hereafter passed relating to any Court of Wards by the Governor General in Council or by a Governor or Lieutenant-Governor in Council ; and nothing in this Act shall be construed to affect, or in any way derogate from, the jurisdiction or authority of any Court of Wards, or to take away any power Saving of jurisdiction of Courts of Wards and Chartered High Courts.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1886, Pt. V, p. 77 ; for Report of the Select Committee, see *ibid*, 1890, Pt. V, p. 77 and for Debates in Council, see *ibid*, 1886, Supplement, pp. 419 and 666 and *ibid*, 1890, Pt. VI, pp. 33 and 45.

For Civil Rules of Practice made by the High Court, Madras, under the Code of Civil Procedure and certain other Acts, for observance by the subordinate Civil Courts of the Presidency except the Madras Small Cause Court, see Fort St. George Gazette, 1905, Supplement, p. 1.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

The Act has been declared in force in the Santhal Parganas by s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (3 of 1899), Ben. Code, Vol. I.

It has been extended to the Angul District by the Angul District Regulation, 1894 (1 of 1894), Ben. Code, Vol. I.

It has been declared not to be in force in the Scheduled Districts in Ganjam and Vizagapatam, by notification under s. 3 (b) of the Scheduled Districts Act, 1874 (14 of 1874), Genl. Acts, Vol. II, see Gazette of India, 1898, Pt. I, p. 872.

<sup>2</sup> The words "Upper Burma, and" were repealed by the Fifth Schedule to the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

possessed by any High Court established under the <sup>1</sup>Statute 24 and 25 Victoria, Chapter 104 (*an Act for establishing High Courts of Judicature in India*).

## Definitions.

4. In this Act, unless there is something repugnant in the subject or context,—

(1) “minor” means a person who, under the provisions of the <sup>2</sup>Indian Majority Act, 1875, is to be deemed not to have attained his majority :

IX of 1875.

(2) “guardian” means a person having the care of the person of a minor or of his property, or of both his person and property :

(3) “ward” means a minor for whose person or property, or both, there is a guardian :

(4) “District Court” has the meaning assigned to that expression in the <sup>3</sup>Code of Civil Procedure, and includes a High Court in the exercise of its ordinary original civil jurisdiction :

XIV of 1882.

(5) “the Court” means the District Court having jurisdiction to entertain an application under this Act for an order appointing or declaring a person to be a guardian ; and, where a guardian has been appointed or declared in pursuance of any such application, it means the Court which appointed or declared the guardian, or, in any matter relating to the person of the ward, the District Court having jurisdiction in the place where the ward for the time being ordinarily resides :

(6) “Collector” means the chief officer in charge of the revenue-administration of a <sup>4</sup>district, and includes any officer whom the <sup>5</sup>Local Government, by notification in the official Gazette, may, by name or in virtue of his office, appoint to be a Collector in any local area, or with respect to any class of persons, for all or any of the purposes of this Act :

(7) “European British subject” means an European British subject as defined in the <sup>6</sup>Code of Criminal Procedure, 1882, and includes any Christian of European descent :

X of 1882.

(8) “prescribed” means prescribed by rules made by the High Court under this Act.

<sup>1</sup> The Indian High Courts Act, 1861, Coll. Stats. Ind., Vol. I.

<sup>2</sup> Genl. Acts, Vol. II.

<sup>3</sup> See now the Code of Civil Procedure, 1908 (Act 5 of 1908), Genl. Acts, Vol. VI.

<sup>4</sup> For appointments of Collectors under this sub-section in—

(1) the Presidency of Bombay, see the Bom. R. & O., Vol. I.

(2) the United Provinces of Agra and Oudh, see U. P. List of Local R. & O., Vol. I.

<sup>5</sup> The powers of the Local Government under this sub-section have been delegated to the Commissioner in Sindh, vide notification No. 3453, dated 17th May 1899, Bom. Govt. Gazette, 1899, Pt. I, p. 636.

<sup>6</sup> See now the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

## CHAPTER II.

## APPOINTMENT AND DECLARATION OF GUARDIANS.

5. (1) Where a minor is an European British subject, a guardian or guardians of his person or property, or both, may be appointed by will or other instrument to take effect on the death of the person appointing,—

(a) by the father of the minor, or,

(b) if the father is dead or incapable of acting, by the mother.

(2) Where guardians have been appointed under sub-section (1) by both parents, they shall act jointly.

6. In the case of a minor who is not a European British subject, nothing in this Act shall be construed to take away or derogate from any power to appoint a guardian of his person or property, or both, which is valid by the law to which the minor is subject.

7. (1) Where the Court is satisfied that it is for the welfare of a minor that an order should be made—

(a) appointing a guardian of his person or property, or both, or

(b) declaring a person to be such a guardian, the Court may make an order accordingly.

(2) An order under this section shall imply the removal of any guardian who has not been appointed by will or other instrument or appointed or declared by the Court.

(3) Where a guardian has been appointed by will or other instrument or appointed or declared by the Court, an order under this section appointing or declaring another person to be guardian in his stead shall not be made until the powers of the guardian appointed or declared as aforesaid have ceased under the provisions of this Act.

8. An order shall not be made under the last foregoing section except on the application of—

(a) the person desirous of being, or claiming to be, the guardian of the minor, or

(b) any relative or friend of the minor, or

(c) the Collector of the district or other local area within which the minor ordinarily resides or in which he has property, or

(d) the Collector having authority with respect to the class to which the minor belongs.

9. (1) If the application is with respect to the guardianship of the person of the minor, it shall be made to the District Court having jurisdiction in the place where the minor ordinarily resides.

Power of parents to appoint in case of European British subjects.

Saving of power to appoint in other cases.

Power of the Court to make order as to guardianship.

Persons entitled to apply for order.

Court having jurisdiction, to entertain application.

*(Chap. II.—Appointment and Declaration of Guardians.)*

(2) If the application is with respect to the guardianship of the property of the minor, it may be made either to the District Court having jurisdiction in the place where the minor ordinarily resides or to a District Court having jurisdiction in a place where he has property.

(3) If an application with respect to the guardianship of the property of a minor is made to a District Court other than that having jurisdiction in the place where the minor ordinarily resides, the Court may return the application if in its opinion the application would be disposed of more justly or conveniently by any other District Court having jurisdiction.

Form of  
application.

10. (1) If the application is not made by the Collector, it shall be by petition signed and verified in manner prescribed by the <sup>1</sup> Code of Civil Procedure for the signing and verification of a plaint, and stating, so far as can be ascertained,—

XIV of 1882.

- (a) the name, sex, religion, date of birth and ordinary residence of the minor ;
- (b) where the minor is a female, whether she is married, and, if so, the name and age of her husband ;
- (c) the nature, situation and approximate value of the property, if any, of the minor ;
- (d) the name and residence of the person having the custody or possession of the person or property of the minor ;
- (e) what near relations the minor has, and where they reside ;
- (f) whether a guardian of the person or property, or both, of the minor has been appointed by any person entitled or claiming to be entitled by the law to which the minor is subject to make such an appointment ;
- (g) whether an application has at any time been made to the Court or to any other Court with respect to the guardianship of the person or property, or both, of the minor, and, if so, when, to what Court and with what result ;
- (h) whether the application is for the appointment or declaration of a guardian of the person of the minor, or of his property or of both ;
- (i) where the application is to appoint a guardian, the qualifications of the proposed guardian ;
- (j) where the application is to declare a person to be a guardian, the grounds on which that person claims ;
- (k) the causes which have led to the making of the application ; and
- (l) such other particulars, if any, as may be prescribed or as the nature of the application renders it necessary to state.

<sup>1</sup> See now the Code of Civil Procedure, 1908 (Act 5 of 1908), Genl. Acts, Vol. VI.

*(Chap. II.—Appointment and Declaration of Guardians.)*

(2) If the application is made by the Collector, it shall be by letter addressed to the Court and forwarded by post or in such other manner as may be found convenient, and shall state as far as possible the particulars mentioned in sub-section (1).

(3) The application must be accompanied by a declaration of the willingness of the proposed guardian to act and the declaration must be signed by him and attested by at least two witnesses.

11. (1) If the Court is satisfied that there is ground for proceeding on the application, it shall fix a day for the hearing thereof, and cause notice of the application and of the date fixed for the hearing—

Procedure  
on admission  
of applica-  
tion.

XIV of 1882. (a) to be served in the manner directed in the <sup>1</sup> Code of Civil Procedure on

- (i) the parents of the minor if they are residing in British India,
- (ii) the person, if any, named in the petition or letter as having the custody or possession of the person or property of the minor,
- (iii) the person proposed in the application or letter to be appointed or declared guardian, unless that person is himself the applicant, and

(iv) any other person to whom, in the opinion of the Court, special notice of the application should be given; and

- (b) to be posted on some conspicuous part of the court-house, and of the residence of the minor, and otherwise published in such manner as the Court, subject to any rules made by the High Court under this Act, thinks fit.

(2) The Local Government may, by <sup>2</sup> general or special order, require that, when any part of the property described in a petition under section 10, sub-section (1), is land of which a Court of Wards could assume the superintendence, the Court shall also cause a notice as aforesaid to be served on the Collector in whose district the minor ordinarily resides, and on every Collector in whose district any portion of the land is situate, and the Collector may cause the notice to be published in any manner he deems fit.

(3) No charge shall be made by the Court or the Collector for the service or publication of any notice served or published under sub-section (2).

12. (1) The Court may direct that the person, if any, having the custody of the minor shall produce him or cause him to be produced at such place and time and before such person as it appoints, and may make such order for the

Power to  
make inter-  
locutory order  
for production  
of minor and

<sup>1</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.

<sup>2</sup> For instance of such order—see Ben. Stat. R. & O., Vol. II;  
U. P. List of Local R. & O., Vol. I.



*(Chap. II.—Appointment and Declaration of Guardians.)*

interim protection of person and property.

temporary custody and protection of the person or property of the minor as it thinks proper.

(2) If the minor is a female who ought not to be compelled to appear in public, the direction under sub-section (1) for her production shall require her to be produced in accordance with the customs and manners of the country.

(3) Nothing in this section shall authorise—

(a) the Court to place a female minor in the temporary custody of a person claiming to be her guardian on the ground of his being her husband, unless she is already in his custody with the consent of her parents, if any, or

(b) any person to whom the temporary custody and protection of the property of a minor is entrusted to dispossess otherwise than by due course of law any person in possession of any of the property.

Hearing of evidence before making of order.

13. On the day fixed for the hearing of the application, or as soon afterwards as may be, the Court shall hear such evidence as may be adduced in support of or in opposition to the application.

Simultaneous proceedings in different Courts.

14. (1) If proceedings for the appointment or declaration of a guardian of a minor are taken in more Courts than one, each of those Courts shall, on being apprised of the proceedings in the other Court or Courts, stay the proceedings before itself.

(2) If the Courts are both or all subordinate to the same High Court, they shall report the case to the High Court and the High Court shall determine in which of the Courts the proceedings with respect to the appointment or declaration of a guardian of the minor shall be had.

(3) In any other case in which proceedings are stayed under sub-section (1), the Courts shall report the case through the Local Government to the Governor General in Council, and the Governor General in Council shall determine in which of the Courts the proceedings with respect to the appointment or declaration of a guardian of the minor shall be had.

Appointment or declaration of several guardians.

15. (1) If the law to which the minor is subject admits of his having two or more joint guardians of his person or property, or both, the Court may, if it thinks fit, appoint or declare them.

(2) On the death of a father, being an European British subject, who has, by will or other instrument to take effect on his death, appointed a guardian of his minor child, the Court may appoint the mother to be guardian of the child jointly with the guardian appointed by the father.

(3) On the death of a mother, being an European British subject, who during the incapacity of the father of her minor child has, by will or other

*(Chap. II.--Appointment and Declaration of Guardians.)*

instrument to take effect on, her death, appointed a guardian of the child, the Court may, if the father becomes capable of acting, appoint him to be sole guardian of the child or guardian of the child jointly with the guardian appointed by the mother, as it thinks fit.

(4) Separate guardians may be appointed or declared of the person and of the property of a minor.

(5) If a minor has several properties, the Court may, if it thinks fit, appoint or declare a separate guardian for any one or more of the properties.

16. If the Court appoints or declares a guardian for any property situate beyond the local limits of its jurisdiction, the Court having jurisdiction in the place where the property is situate shall, on production of a certified copy of the order appointing or declaring the guardian, accept him as duly appointed or declared and give effect to the order.

Appointment or declaration of guardian for property beyond jurisdiction of the Court.

17. (1) In appointing or declaring the guardian of a minor, the Court shall, subject to the provisions of this section, be guided by what, consistently with the law to which the minor is subject, appears in the circumstances to be for the welfare of the minor.

Matters to be considered by the Court in appointing guardian.

(2) In considering what will be for the welfare of the minor, the Court shall have regard to the age, sex and religion of the minor, the character and capacity of the proposed guardian and his nearness of kin to the minor, the wishes, if any, of a deceased parent, and any existing or previous relations of the proposed guardian with the minor or his property.

(3) If the minor is old enough to form an intelligent preference, the Court may consider that preference.

(4) As between parents who are European British subjects adversely claiming the guardianship of the person, neither parent is entitled to it as of right, but, other things being equal, if the minor is a male of tender years or a female, the minor should be given to the mother, and if the minor is a male of an age to require education and preparation for labour and business, then to the father.

(5) The Court shall not appoint or declare any person to be a guardian against his will.

18. Where a Collector is appointed or declared by the Court in virtue of his office to be guardian of the person or property, or both, of a minor, the order appointing or declaring him shall be deemed to authorise and require the person for the time being holding the office to act as guardian of the minor with respect to his person or property, or both, as the case may be.

Appointment or declaration of Collector in virtue of office.

19. Nothing in this Chapter shall authorise the Court to appoint or declare a guardian of the property of a minor whose property is under the

Guardian not to be appointed by the

(Chap. II.—*Appointment and Declaration of Guardians.* Chap. III.—*Duties, Rights and Liabilities of Guardians.*)

Court in certain cases.

superintendence of a Court of Wards, or to appoint and declare a guardian of the person—

- (a) of a minor who is a married female and whose husband is not, in the opinion of the Court, unfit to be guardian of her person, or,
- (b) subject to the provisions of this Act with respect to European British subjects, of a minor whose father is living and is not, in the opinion of the Court, unfit to be guardian of the person of the minor, or
- (c) of a minor whose property is under the superintendence of a Court of Wards competent to appoint a guardian of the person of the minor.

### CHAPTER III.

#### DUTIES, RIGHTS AND LIABILITIES OF GUARDIANS.

##### *General.*

Fiduciary relation of guardian to ward.

20. (1) A guardian stands in a fiduciary relation to his ward, and, save as provided by the will or other instrument, if any, by which he was appointed, or by this Act, he must not make any profit out of his office.

(2) The fiduciary relation of a guardian to his ward extends to and effects purchases by the guardian of the property of the ward, and by the ward of the property of the guardian, immediately or soon after the ward has ceased to be a minor, and generally all transactions between them while the influence of the guardian still lasts or is recent.

Capacity of minors to act as guardians.

21. A minor is incompetent to act as guardian of any minor except his own wife or child or, where he is the managing member of an undivided Hindu family, the wife or child of another minor member of that family.

Remuneration of guardian.

22. (1) A guardian appointed or declared by the Court shall be entitled to such allowance, if any, as the Court thinks fit for his care and pains in the execution of his duties.

(2) When an officer of the Government, as such officer, is so appointed or declared to be guardian, such fees shall be paid to the Government out of the property of the ward as the Local Government, by <sup>1</sup> general or special order, directs.

Control of Collector, as guardian.

23. A Collector appointed or declared by the Court to be guardian of the person or property, or both, of a minor shall, in all matters connected with the guardianship of his ward, be subject to the control of the Local

<sup>1</sup> For instance of such order, see Ben. Stat. R. & O., Vol. II,

*(Chap. III.—Duties, Rights and Liabilities of Guardians.)*

Government or of such authority as that Government, by <sup>1</sup> notification in the official Gazette, appoints in this behalf.

*Guardian of the Person.*

24. A guardian of the person of a ward is charged with the custody of the ward and must look to his support, health and education, and such other matters as the law to which the ward is subject requires. Duties of guardian of the person.

25. (1) If a ward leaves or is removed from the custody of a guardian of his person, the Court, if it is of opinion that it will be for the welfare of the ward to return to the custody of his guardian, may make an order for his return, and for the purpose of enforcing the order may cause the ward to be arrested and to be delivered into the custody of the guardian. Title of guardian to custody of ward.

(2) For the purpose of arresting the ward, the Court may exercise the power conferred on a Magistrate of the first class by section 100 of the <sup>2</sup> Code of Criminal Procedure, 1882. X of 1882.

(3) The residence of a ward against the will of his guardian with a person who is not his guardian does not of itself terminate the guardianship.

26. (1) A guardian of the person appointed or declared by the Court, unless he is the Collector or is a guardian appointed by will or other instrument, shall not, without the leave of the Court by which he was appointed or declared, remove the ward from the limits of its jurisdiction except for such purposes as may be prescribed. Removal of ward from jurisdiction.

(2) The leave granted by the Court under sub-section (1) may be special or general, and may be defined by the order granting it.

*Guardian of Property.*

27. A guardian of the property of a ward is bound to deal therewith as carefully as a man of ordinary prudence would deal with it if it were his own and, subject to the provisions of the Chapter, he may do all acts which are reasonable and proper for the realisation, protection or benefit of the property. Duties of guardian of property.

28. Where a guardian has been appointed by will or other instrument, his power to mortgage or charge, or transfer by sale, gift, exchange or otherwise, immoveable property belonging to his ward is subject to any restriction which may be imposed by the instrument, unless he has under this Act been Powers of testamentary guardian.

<sup>1</sup> For notifications appointing authorities to whose control Collectors appointed under the Act shall be subject, in—

(1) Bengal, *see* Ben. Stat. R. & O., Vol. II;

(2) Bombay, *see* Bom. R. & O., Vol. I;

(3) U. P. of Agra and Oudh, *see* U. P. and Oudh List of Local R. & O., Vol. I;

(4) Punjab, *see* Notification No. 632, dated 28th June 1901, in Punj. Gazette, 1901, Pt. I, p. 756.

<sup>2</sup> *See* now the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

*(Chap. III.—Duties, Rights and Liabilities of Guardians.)*

declared guardian and the Court which made the declaration permits him by an order in writing, notwithstanding the restriction, to dispose of any immoveable property specified in the order in a manner permitted by the order.

Limitation of powers of guardian of property appointed or declared by the Court.

29. Where a person other than a Collector, or than a guardian appointed by will or other instrument, has been appointed or declared by the Court to be guardian of the property of a ward, he shall not, without the previous permission of the Court,—

- (a) mortgage or charge, or transfer by sale, gift, exchange or otherwise any part of the immoveable property of his ward, or
- (b) lease any part of that property for a term exceeding five years or for any term extending more than one year beyond the date on which the ward will cease to be a minor.

Voidability of transfers made in contravention of section 28 or section 29. Practice with respect to permitting transfers under section 2.

30. A disposal of immoveable property by a guardian in contravention of either of the two last foregoing sections is voidable at the instance of any other person affected thereby.

31. (1) Permission to the guardian to do any of the acts mentioned in section 29 shall not be granted by the Court except in case of necessity or for an evident advantage to the ward.

(2) The order granting the permission shall recite the necessity or advantage, as the case may be, describe the property with respect to which the act permitted is to be done, and specify such conditions, if any, as the Court may see fit to attach to the permission; and it shall be recorded, dated and signed by the Judge of the Court with his own hand, or when from any cause he is prevented from recording the order with his own hand, shall be taken down in writing from his dictation and be dated and signed by him.

(3) The Court may in its discretion attach to the permission the following among other conditions, namely :—

- (a) that a sale shall not be completed without the sanction of the Court ;
- (b) that a sale shall be made to the highest bidder by public auction, before the Court or some person specially appointed by the Court for that purpose, at a time and place to be specified by the Court, after such proclamation of the intended sale as the Court, subject to any rules made under this Act by the High Court, directs ;
- (c) that a lease shall not be made in consideration of a premium or shall be made for such term of years and subject to such rents and covenants as the Court directs ;
- (d) that the whole or any part of the proceeds of the act permitted shall be paid into the Court by the guardian, to be disbursed therefrom

or to be invested by the Court on prescribed securities or to be otherwise disposed of as the Court directs.

(4) Before granting permission to a guardian to do an act mentioned in section 29, the Court may cause notice of the application for the permission to be given to any relative or friend of the ward who should, in its opinion, receive notice thereof, and shall hear and record the statement of any person who appears in opposition to the application.

32. Where a guardian of the property of a ward has been appointed or declared by the Court and such guardian is not the Collector, the Court may, from time to time, by order, define, restrict or extend his powers with respect to the property of the ward in such manner and to such extent as it may consider to be for the advantage of the ward and consistent with the law to which the ward is subject.

Variation of powers of guardian of property appointed or declared by the Court.

33. (1) A guardian appointed or declared by the Court may apply by petition to the Court which appointed or declared him for its opinion, advice or direction on any present question respecting the management or administration of the property of his ward.

Right of guardian so appointed or declared to apply to the Court for opinion in management of property of ward.

(2) If the Court considers the question to be proper for summary disposal, it shall cause a copy of the petition to be served on, and the hearing thereof may be attended by, such of the persons interested in the application as the Court thinks fit.

(3) The guardian stating in <sup>1</sup> good faith the facts in the petition and acting upon the opinion, advice or direction given by the Court shall be deemed, so far as regards his own responsibility, to have performed his duty as guardian in the subject-matter of the application.

34. <sup>2</sup> Where a guardian of the property of a ward has been appointed or declared by the Court and such guardian is not the Collector, he shall,—

Obligations on guardian of property appointed or declared by the Court.

(a) if so required by the Court, give a bond as nearly as may be in the prescribed form, to the Judge of the Court to enure for the benefit of the Judge for the time being, with or without sureties, as may be prescribed, engaging duly to account for what he may receive in respect of the property of the ward ;

(b) if so required by the Court, deliver to the Court, within six months from the date of his appointment or declaration by the Court or within such other time as the Court directs, a statement of the immoveable property belonging to the ward, of the money and other moveable property which he has received on behalf of the

<sup>1</sup> See s. 3 (20) of the General Clauses Act, 1897 (10 of 1897), *infra*.

<sup>2</sup> For instance of notifications issued under this section, see Bom. R. & O., Vol. III.

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ward up to the date of delivering the statement, and of the debts due on that date to or from the ward ;

- (c) if so required by the Court, exhibit his accounts in the Court at such times and in such form as the Court from time to time directs ;
- (d) if so required by the Court, pay into the Court at such time as the Court directs the balance due from him on those accounts, or so much thereof as the Court directs ; and
- (e) apply for the maintenance, education and advancement of the ward and of such persons as are dependent on him, and for the celebration of ceremonies to which the ward or any of those persons may be a party, such portion of the income of the property of the ward as the Court from time to time directs, and, if the Court so directs, the whole or any part of that property.

Suit against guardian where administration-bond was taken.

35. Where a guardian appointed or declared by the Court has given a bond duly to account for what he may receive in respect of the property of his ward, the Court may, on application made by petition and on being satisfied that the engagement of the bond has not been kept, and upon such terms as to security, or providing that any money received be paid into the Court, or otherwise as the Court thinks fit, assign the bond to some proper person, who shall thereupon be entitled to sue on the bond in his own name as if the bond had been originally given to him instead of to the Judge of the Court and shall be entitled to recover thereon as trustee for the ward, in respect of any breach thereof.

Suit against guardian where administration-bond was not taken.

36. (1) Where a guardian appointed as declared by the Court has not given a bond as aforesaid, any person, with the leave of the Court, may, as next friend, at any time during the continuance of the minority of the ward, and upon such terms as aforesaid, institute a suit against the guardian, or, in case of his death, against his representative, for an account of what the guardian has received in respect of the property of the ward, and may recover in the suit, as trustee for the ward, such amount as may be found to be payable by the guardian or his representative, as the case may be.

(2) The provisions of sub-section (1) shall, so far as they relate to a suit against a guardian, be subject to the provisions of section 440 of the Code of Civil Procedure as amended by this Act.<sup>1</sup>

General liability of guardian as trustee.

37. Nothing in either of the two last foregoing sections shall be construed to deprive a ward or his representative of any remedy against his guardian, or the representative of the guardian, which, not being expressly provided in

XIV of 1889.

<sup>1</sup> See now Order XXXII, rules 1 and 4 (2) in the First Schedule to the Code of Civil Procedure, 1908 (Act 5 of 1908), Genl. Acts, Vol. VI.

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either of those sections, any other beneficiary or his representative would have against his trustee or the representative of the trustee.

*Termination of Guardianship.*

38. On the death of one of two or more joint guardians, the guardianship continues to the survivor or survivors until a further appointment is made by the Court. Right of survivorship among joint guardians.

39. The Court may, on the application of any person interested, or of its own motion, remove a guardian appointed or declared by the Court, or a guardian appointed by will or other instrument, for any of the following causes, namely:— Removal of guardian.

- (a) for abuse of his trust ;
- (b) for continued failure to perform the duties of his trust ;
- (c) for incapacity to perform the duties of his trust ;
- (d) for ill-treatment, or neglect to take proper care, of his ward ;
- (e) for contumacious disregard of any provision of this Act or of any order of the Court ;
- (f) for conviction of an offence implying, in the opinion of the Court, a defect of character which unfits him to be the guardian of his ward ;
- (g) for having an interest adverse to the faithful performance of his duties ;
- (h) for ceasing to reside within the local limits of the jurisdiction of the Court ;
- (i) in the case of a guardian of the property, for bankruptcy or insolvency ;
- (j) by reason of the guardianship of the guardian ceasing or being liable to cease, under the law to which the minor is subject :

Provided that a guardian appointed by will or other instrument, whether he has been declared under this Act or not, shall not be removed—

- (a) for the cause mentioned in clause (g) unless the adverse interest accrued after the death of the person who appointed him, or it is shown that that person made and maintained the appointment in ignorance of the existence of the adverse interest, or
- (b) for the cause mentioned in clause (h) unless such guardian has taken up such a residence as, in the opinion of the Court, renders it impracticable for him to discharge the functions of guardian.

40. (1) If a guardian appointed or declared by the Court desires to resign his office, he may apply to the Court to be discharged. Discharge of guardian.

(2) If the Court finds that there is sufficient reason for the application,



(Chap. III.—Duties, Rights and Liabilities of Guardians. Chap. IV.—  
Supplemental Provisions.)

it shall discharge him, and if the guardian making the application is the Collector and the Local Government approves of his applying to be discharged, the Court shall in any case discharge him.

Cessation of  
authority of  
guardian.

41. (1) The powers of a guardian of the person cease—

- (a) by his death, removal or discharge ;
- (b) by the Court of Wards assuming superintendence of the person of the ward ;
- (c) by the ward ceasing to be a minor ;
- (d) in the case of a female ward by her marriage to a husband who is not unfit to be guardian of her person or, if the guardian was appointed or declared by the Court, by her marriage to a husband who is not, in the opinion of the Court, so unfit ; or,
- (e) in the case of a ward whose father was unfit to be guardian of the person of the ward, by the father ceasing to be so or, if the father was deemed by the Court to be so unfit, by his ceasing to be so in the opinion of the Court.

(2) The powers of a guardian of the property cease—

- (a) by his death, removal or discharge ;
- (b) by the Court of Wards assuming superintendence of the property of the ward ; or
- (c) by the ward ceasing to be a minor.

(3) When for any cause the powers of a guardian cease, the Court may require him or, if he is dead, his representative to deliver as it directs any property in his possession or control belonging to the ward or any accounts in his possession or control relating to any past or present property of the ward.

(4) When he has delivered the property or accounts as required by the Court, the Court may declare him to be discharged from his liabilities save as regards any fraud which may subsequently be discovered.

Appointment  
of successor  
to guardian  
dead, dis-  
charged or  
removed.

42. When a guardian appointed or declared by the Court is discharged or under the law to which the ward is subject, ceases to be entitled to act, or when any such guardian or a guardian appointed by will or other instrument is removed or dies, the Court, of its own motion or on application under Chapter II, may, if the ward is still a minor, appoint or declare another guardian of his person or property, or both, as the case may be.

## CHAPTER IV.

### SUPPLEMENTAL PROVISIONS.

Orders for

43. (1) The Court may, on the application of any person interested or of

*(Chap. IV.—Supplemental Provisions.)*

its own motion, make an order regulating the conduct or proceedings of any guardian appointed or declared by the Court.

regulating  
conduct or  
proceedings  
of guardians,  
and enforce-  
ment of those  
orders.

(2) Where there are more guardians than one of a ward, and they are unable to agree upon a question affecting his welfare, any of them may apply to the Court for its direction, and the Court may make such order respecting the matter in difference as it thinks fit.

(3) Except where it appears that the object of making an order under sub-section (1) or sub-section (2) would be defeated by the delay, the Court shall, before making the order, direct notice of the application therefor or of the intention of the Court to make it, as the case may be, to be given, in a case under sub-section (1), to the guardian or, in a case under sub-section (2), to the guardian who has not made the application.

(4) In case of disobedience to an order made under sub-section (1) or sub-section (2), the order may be enforced in the same manner as an injunction granted under <sup>1</sup> section 492 or section 493 of the Code of Civil Procedure, in a case under sub-section (1), as if the ward were the plaintiff and the guardian were the defendant or, in a case under sub-section (2), as if the guardian who made the application were the plaintiff and the other guardian were the defendant.

XIV of 1882.

(5) Except in a case under sub-section (2), nothing in this section shall apply to a Collector who is, as such, a guardian.

44. If, for the purpose or with the effect of preventing the Court from exercising its authority with respect to a ward, a guardian appointed or declared by the Court removes the ward from the limits of the jurisdiction of the Court in contravention of the provisions of section 26, he shall be liable, by order of the Court, to fine not exceeding one thousand rupees, or to imprisonment in the civil jail for a term which may extend to six months.

Penalty for  
removal of  
ward from  
jurisdiction.

45. (1) In the following cases, namely :—

Penalty for  
contumacy.

(a) if a person having the custody of a minor fails to produce him or cause him to be produced in compliance with a direction under section 12, sub-section (1), or to do his utmost to compel the minor to return to the custody of his guardian in obedience to an order under section 25, sub-section (1), or

(b) if a guardian appointed or declared by the Court fails to deliver to the Court, within the time allowed by or under clause (b) of section 84, a statement required under that clause, or to exhibit accounts in compliance with a requisition under clause (c) of that section,

<sup>1</sup> See now Order XXXIX, rules 1 and 2 in the First Schedule to the Code of Civil Procedure, 1908 (Act 5 of 1908), Genl. Acts, Vol. VI.

*(Chap. IV.—Supplemental Provisions.)*

or to pay into the Court the balance due from him on those accounts in compliance with a requisition under clause (d) of that section, or

- (c) if a person who has ceased to be a guardian, or the representative of such a person, fails to deliver any property or accounts in compliance with a requisition under section 41, sub-section (3),

the person, guardian or representative, as the case may be, shall be liable, by order of the Court, to fine not exceeding one hundred rupees, and in case of recusancy to further fine not exceeding ten rupees for each day after the first during which the default continues, and not exceeding five hundred rupees in the aggregate, and to detention in the civil jail until he undertakes to produce the minor or cause him to be produced, or to compel his return, or to deliver the statement or to exhibit the accounts, or to pay the balance, or to deliver the property or accounts, as the case may be.

(2) If a person who has been released from detention on giving an undertaking under sub-section (1) fails to carry out the undertaking within the time allowed by the Court, the Court may cause him to be arrested and re-committed to the civil jail.

Reports by  
Collectors  
and Sub-  
ordinate  
Courts.

46. (1) The Court may call upon the Collector, or upon any Court subordinate to the Court, for a report on any matter arising in any proceeding under this Act and treat the report as evidence.

(2) For the purpose of preparing the report the Collector or the Judge of the subordinate Court, as the case may be, shall make such inquiry as he deems necessary, and may for the purposes of the inquiry exercise any power of compelling the attendance of a witness to give evidence or produce a document which is conferred on a Court by the <sup>1</sup>Code of Civil Procedure.

XIV of 1882.

Orders ap-  
pealable.

47. An appeal shall lie to the High Court from an order made by a District Court,—

- (a) under section 7, appointing or declaring or refusing to appoint or declare a guardian ; or,
- (b) under section 9, sub-section (3), returning an application ; or,
- (c) under section 25, making or refusing to make an order for the return of a ward to the custody of his guardian ; or,
- (d) under section 26, refusing leave for the removal of a ward from the limits of the jurisdiction of the Court, or imposing conditions with respect thereto ; or,
- (e) under section 28 or section 29, refusing permission to a guardian to do an act referred to in the section ; or,

<sup>1</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.

## (Chap. IV.—Supplemental Provisions.)

- (f) under section 32, defining, restricting or extending the powers of a guardian ; or,
- (g) under section 39, removing a guardian ; or
- (h) under section 40, refusing to discharge a guardian ; or
- (i) under section 43, regulating the conduct or proceedings of a guardian or settling a matter in difference between joint guardians, or enforcing the order ; or,
- (j) under section 44 or section 45, imposing a penalty.

XIV of 1882.

48. Save as provided by the last foregoing section and by <sup>1</sup> section 622 of the Code of Civil Procedure, an order made under this Act shall be final and shall not be liable to be contested by suit or otherwise. Finality of other orders.

49. The costs of any proceeding under this Act, including the costs of maintaining a guardian or other person in the civil jail, shall, subject to any rules made by the High Court under this Act, be in the discretion of the Court in which the proceeding is had. Costs.

50. (1) In addition to any other power to make rules conferred expressly or impliedly by this Act, the High Court may from time to time make <sup>2</sup> rules consistent with this Act— Power of High Court to make rules.

- (a) as to the matters respecting which, and the time at which, reports should be called for from Collectors and subordinate Courts ;
- (b) as to the allowances to be granted to, and the security to be required from guardians, and the cases in which such allowances should be granted ;
- (c) as to the procedure to be followed with respect to applications of guardians for permission to do acts referred to in sections 28 and 29 ;
- (d) as to the circumstances in which such requisitions as are mentioned in clauses (a), (b), (c) and (d) of section 34 should be made ;
- (e) as to the preservation of statements and accounts delivered and exhibited by guardians ;
- (f) as to the inspection of those statements and accounts by persons interested ;
- (g) as to the custody of money, and securities for money, belonging to wards ;

<sup>1</sup> See now s. 115 of the Code of Civil Procedure, 1908 (Act 5 of 1908), Genl. Acts, Vol. VI.

<sup>2</sup> For rules made by the Judicial Commissioner, Central Provinces, see Cenl. Provs. Gazette, 1908, Pt. I, p. 765.

For rules made by the Chief Commissioner, North-West Frontier Province, see Gazette of India, 1906, Pt. II, p. 546.

- (h) as to the securities on which money belonging to wards may be invested;
- (i) as to the education of wards for whom guardians, not being Collectors, have been appointed or declared by the Court; and,
- (j) generally, for the guidance of the Courts in carrying out the purposes of this Act.

(2) Rules under clauses (a) and (i) of sub-section (1) shall not have effect until they have been approved by the Local Government, nor shall any rule under this section have effect until it has been published in the official Gazette.

Applicability  
of Act to  
guardians  
already ap-  
pointed by  
Court.

51. A guardian appointed by or holding a certificate of administration from a Civil Court under any enactment repealed by this Act shall, save as may be prescribed, be subject to the provisions of this Act, and of the rules made under it, as if he had been appointed or declared by the Court under Chapter II.

Amendment  
of Indian  
Majority  
Act.

52. In section 3 of the <sup>1</sup> Indian Majority Act, 1875, for the words “every minor of whose person or property a guardian has been or shall be appointed by any Court of Justice, and every minor under the jurisdiction of any Court of Wards” the following shall be substituted, namely :—

“every minor of whose person or property, or both, a guardian, other than a guardian for a suit within the meaning of <sup>2</sup> Chapter XXXI of the Code of Civil Procedure, has been or shall be appointed or declared by any Court of Justice before the minor has attained the age of eighteen years, and every minor of whose property the superintendence has been or shall be assumed by any Court of Wards before the minor has attained that age.”

53. [*Amendment of Chapter XXXI of the Code of Civil Procedure.*] *Rep. Act V of 1908.*

<sup>1</sup> Genl. Acts, Vol. II.

<sup>2</sup> See now Order XXXII in the First Schedule to the Code of Civil Procedure, 1908 (Act 5 of 1908), Genl. Acts, Vol. VI.

## (The Schedule—Enactments repealed.)

## THE SCHEDULE.

## ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Title or subject.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>		
XIV of 1858	Minors (Madras)	The whole.
XL of 1858	Minors (Bengal)	So much as has not been repealed.
IX of 1861	Minors	The whole.
XX of 1864	Minors (Bombay)	The whole.
<sup>1</sup> XIV of 1863	Bombay Civil Courts Act, 1869	So much of the last paragraph of section 16 as has not been repealed.
<sup>2</sup> VII of 1870	Court-fees Act, 1870	Section 19H, and article 10 of schedule I.
<sup>3</sup> IV of 1872	Punjab Laws Act, 1872	So far as it relates to Act XL of 1858.
<sup>4</sup> XIX of 1873	North-Western Provinces Land-revenue Act, 1873.	Section 253.
XIII of 1874	European British Minors Act, 1874.	The whole.
<sup>5</sup> XV of 1874	Laws Local Extent Act, 1874	So far as it relates to any enactment repealed by this Act.
<sup>6</sup> XX of 1875	Central Provinces Laws Act, 1875	So far as it relates to Act XL of 1858.
<sup>7</sup> XVIII of 1876	Oudh Laws Act, 1876	So far as it relates to Act XL of 1858.
<sup>7</sup> XIII of 1879	Oudh Civil Courts Act, 1879	Clause (1) of section 25 relating to proceedings under Acts XL of 1858 and IX of 1861.
<sup>8</sup> XIV of 1882	Code of Civil Procedure	The second paragraph of section 443.
<sup>9</sup> XVIII of 1884	Punjab Courts Act, 1884	So much of section 29 as has not been repealed.
10   *   *   *	*   *   *	10*   *   *

<sup>1</sup> Bom. Code, Vol. I.<sup>2</sup> Genl. Acts, Vol. II.<sup>3</sup> Punj. & N.-W. Code.<sup>4</sup> Since entirely rep. by the U. P. Land-revenue Act, 1901 (U. P. Act 3 of 1901), U. P. Code, Vol. II.<sup>5</sup> Genl. Acts, Vol. II.<sup>6</sup> Genl. Prov. Code.<sup>7</sup> U. P. Code, Vol. I.<sup>8</sup> Since entirely rep. by Act 5 of 1908, Genl. Acts, Vol. VI.<sup>9</sup> Punj. & N. W. Code.<sup>10</sup> Act 17 of 1885 was rep. by the Central Provinces Court of Wards Act, 1889 (24 of 1889), Genl. Provs. Code.

THE SCHEDULE—continued.

Number and year.	Title or subject.	Extent of repeal.
<i>Acts of the Governor General in Council—contd.</i>		
<sup>1</sup> XII of 1887	Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.	Clause (b) of section 23, sub-section (2).
* * * *	* * * *	* * * *
<i>Madras Regulations.</i>		
<sup>5</sup> V of 1804	Court of Wards	Section 20 and so much of sections 21 and 22 as relates to persons and property of minors not subject to the superintendence of the Court of Wards.
<sup>4</sup> X of 1831	Minors' Estates	Section 3.
<i>Regulations under the Statute 33 Victoria, Chapter 3.</i>		
<sup>5</sup> IX of 1874	Arakan Hill District Laws	So far as its relates to Acts XL of 1858 and IX of 1861.

<sup>1</sup> E. B. & A. Code, Vol. I.

<sup>2</sup> Act 11 of 1889 was rep. by the Lower Burma Courts Act, 1900 (6 of 1900), Bur. Code.

<sup>3</sup> Since entirely rep. by the Mad. Court of Wards Act, 1902 (Mad. Act 2 of 1902), Mad. Code.

\* Mad. Code, Vol. I.

§ Bur. Code.

## THE INDIAN RAILWAYS ACT, 1890.

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## CHAPTER I.

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**THE FIRST SCHEDULE.—ENACTMENTS REPEALED.**

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## ACT No. IX OF 1890.<sup>1</sup>

[21st March, 1890.]

### An Act to consolidate, amend and add to the law relating to Railways in India.

WHEREAS it is expedient to consolidate, amend and add to the law relating to railways in India ; It is hereby enacted as follows :—

#### CHAPTER I.

##### PRELIMINARY.

Title, extent  
and com-  
mencement.

1. (1) This Act may be called the Indian Railways Act, 1890.
- (2) It extends to the whole of British India, inclusive<sup>2\*</sup> \* \* \* \*  
(in so far as it has been or may be extended under the provisions of the  
Sindh-Pishin Railway Act, 1887,) of British Baluchistan, and applies also<sup>XI of 1887.</sup>  
to all subjects of Her Majesty within the dominions of Princes and States in  
India in alliance with Her Majesty, and to all Native subjects of Her  
Majesty, without and beyond British India and those dominions ; and
- (3) It shall come into force on the first day of May, 1890.

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1888, Pt. V, p. 133 ; for Report of the Select Committee, *see* *ibid*, 1890, Pt. V, p. 23 and for debates in Council, *see* *ibid*, 1888, Pt. VI, pp. 124 and 137, and *ibid*, 1890, Pt. VI, pp. 15 and 48

Act 9 of 1890 has been declared in force by notification under s 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), Genl. Acts, Vol. II, in the following Scheduled Districts, namely :—

Tarai Parganas, Province of Agra, *see* Gazette of India, 1890 Pt. I, p. 576 ; the Districts of Hazaribagh, Lohardaga (including at this time the present District of Palamu which was separated in 1894) and Manbhum, and Pargana Dhaibhum and the Kolhan in the District of Singhbhum, *see* *ibid*, p. 85.

The District of Lohardaga is now called the Ranchi District, *see* Calcutta Gazette, 1899, Pt. I, p. 44.

It has been applied to the Santhal Parganas by the Santhal Parganas Settlement Regulation (3 of 1872), s. 3, as amended by the Santhal Parganas Justice and Laws Regulation, 1893 (3 of 1899) *See* Pt. II of the Schedule to the last-named Regulation. Ben. Cole. Vol. I.

It has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

It was previously in force there *proprio vigore*.

It has been extended under s 4, sub-sections (2) and (5), of the Sindh-Pishin Railway Act, 1887 (11 of 1887), to that part of the Sindh-Pishin section of the North Western railway which lies beyond the province of Sindh, subject to certain modifications, *see* notification in Appendix to the Bal. Code.

The Railway Board Act, 1905 (4 of 1905), is to be read with and taken as part of this Act, *see* s. 1(2) of that Act, Genl. Acts, Vol. VI.

<sup>2</sup> The words " of Upper Burma and " were repealed by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

<sup>3</sup> Bal. Code.

*(Chap. I.—Preliminary.)*

2.<sup>1</sup> (1) On and from that day the enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof. Repeal.

(2) But all rules, declarations and appointments made, sanctions and directions given, forms approved, powers conferred and notifications published under any of those enactments, or under any enactment repealed by any of them, shall, so far as they are consistent with this Act, be deemed to have been respectively made, given, approved, conferred and published under this Act.

(3) Any enactment or document referring to any of those enactments or to any enactment repealed by any of them, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

3. In this Act, unless there is something repugnant in the subject or context,— Definitions.

XI of 1886.

(1) "tramway" means a tramway constructed under the <sup>2</sup> Indian Tramways Act, 1886, or any special Act relating to tramways :

(2) "ferry" includes a bridge of boats, pontoons or rafts, a swing-bridge, a flying bridge and a temporary bridge, and the approaches to, and landing-places of, a ferry :

(3) "inland water" means any canal, river, lake or navigable water in British India :

(4) "railway" means a railway, or any portion of a railway, for the public carriage of passengers, animals or goods, and includes—

(a) all land within the fences or other boundary-marks indicating the limits of the land appurtenant to a railway ;

(b) all lines of rails, sidings or branches worked over for the purposes of, or in connection with, a railway ;

(c) all stations, offices, warehouses, wharves, work-shops, manufactories, fixed plant and machinery and other works constructed for the purposes of, or in connection with, a railway ; and

(d) all ferries, ships, boats and rafts which are used on inland waters for the purposes of the traffic of a railway and belong to or are hired or worked by the authority administering the railway :

(5)<sup>3</sup> "railway company" includes any persons, whether incorporated or

<sup>1</sup> So much of this section as relates to the repeal of part of the Upper Burma Laws Act, 1886 (20 of 1886), has been repealed by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

<sup>2</sup> *enl. Acts*, Vol. III.

<sup>3</sup> *Cf.* the Regulation of Railways Act, 1871 (34 & 35 Vict., c. 78), s. 2.



## (Chap. I.—Preliminary.)

not, who are owners or lessees of a railway or parties to an agreement for working a railway :

(6) "railway administration" or "administration," in the case of a railway administered by the Government or a Native State, means the manager of the railway and includes the Government or the Native State, and, in the case of a railway administered by a railway company, means the railway company :

(7) "railway servant" means any persons employed by a railway administration in connection with the service of a railway :

(8) "Inspector" means an Inspector of Railways appointed under this Act :

(9)<sup>1</sup> "good" includes inanimate things of every kind :

(10)<sup>2</sup> "rolling-stock" includes locomotive engines, tenders, carriages, wagons, trucks and trollies of all kinds :

(11)<sup>3</sup> "traffic" includes rolling-stock of every description, as well as passengers, animals and goods :

(12) "through traffic" means traffic which is carried over the railways of two or more railway administrations :

(13)<sup>3</sup> "rate" includes any fare, charge or other payment for the carriage of any passenger, animal or goods :

(14)<sup>4</sup> "terminals" includes charges in respect of stations, sidings, wharves, depôts, warehouses, cranes and other similar matters, and of any services rendered thereat :

(15) "pass" means an authority given by a railway administration, or by an officer appointed by a railway administration in this behalf, and authorizing the person to whom it is given to travel as a passenger on a railway gratuitously :

(16) "ticket" includes a single ticket, a return ticket and a season ticket :

(17) "maund" means a weight of three thousand two hundred tolas, each tola being a weight of one hundred and eighty grains Troy : and

(18)<sup>5</sup> "Collector" means the chief officer in charge of the land-revenue administration of a district, and includes any officer specially appointed by the Local Government to discharge the functions of a Collector under this Act.

<sup>1</sup> Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 3.

<sup>2</sup> Cf. the Railway Rolling-Stock Protection Act, 1872 (35 & 36 Vict., c. 50), s. 2.

<sup>3</sup> Cf. the Railway and Canal Traffic Act, 1854 (17 & 18 Vict., c. 31), s. 1.

<sup>4</sup> Cf. the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 55.

<sup>5</sup> See also the definition in s. 3 (10) of the General Clauses Act, 1897 (10 of 1897), *infra*

## CHAPTER II.

## INSPECTION OF RAILWAYS.

4.<sup>1</sup> (1) The Governor General in Council may <sup>2</sup>appoint persons, by name or by virtue of their office, to be Inspectors of Railways.

Appointment  
and duties of  
Inspectors.

(2) The duties of an Inspector of Railways shall be—

- (a) to inspect railways with a view to determine whether they are fit to be opened for the public carriage of passengers, and to report thereon to the Governor General in Council as required by this Act ;
- (b) to make such periodical or other inspections of any railway or of any rolling-stock used thereon as the Governor General in Council may direct ;
- (c) to make inquiry under this Act into the cause of any accident on a railway ;
- (d) to perform such other duties as are imposed on him by this Act, or any other enactment for the time being in force relating to railways.

XLV of 1860. 5.<sup>3</sup> An Inspector shall, for the purpose of any of the duties which he is required or authorized to perform under this Act, be deemed to be a public servant within the meaning of the <sup>4</sup>Indian Penal Code, and, subject to the control of the Governor General in Council, shall for that purpose have the following powers, namely :—

Powers of  
Inspectors.

- (a) to enter upon and inspect any railway or any rolling-stock used thereon ;
- (b) by an order in writing under his hand addressed to the railway administration, to require the attendance before him of any railway servant, and to require answers or returns to such inquiries as he thinks fit to make from such railway servant or from the railway administration ;
- (c) to require the production of any book or document belonging to or in the possession or control of any railway administration (except a communication between a railway company and its legal advisers) which it appears to him to be necessary to inspect.

<sup>1</sup> Cf. the Regulation of Railways Act, 1871 (34 & 35 Vict., c. 78), s. 3.

<sup>2</sup> For persons appointed to be Inspectors of Railways under this section, see Government of India (Railway) Circular No. XV, dated 4th December, 1888.

<sup>3</sup> Cf. the Regulation of Railways Act, 1871 (34 & 35 Vict., c. 78), s. 4.

<sup>4</sup> Genl. Acts, Vol. I.

(Chap. II.—*Inspection of Railways.* Chap. III.—*Construction and Maintenance of Works.*)

Facilities to be afforded to Inspectors.

6. A railway administration shall afford to the Inspector all reasonable facilities for performing the duties and exercising the powers imposed and conferred upon him by this Act.

## CHAPTER III.

### CONSTRUCTION AND MAINTENANCE OF WORKS.

Authority of railway administrations to execute all necessary works.

7.<sup>1</sup> (1) Subject to the provisions of this Act and, in the case of immovable property not belonging to the railway administration, to the provisions of any enactment for the time being in force for the acquisition of land for public purposes and for companies, and subject also, in the case of a railway company, to the provisions of any contract between the company and the Government, a railway administration may for the purpose of constructing a railway or the accommodation or other works connected therewith, and notwithstanding anything in any other enactment for the time being in force,—

- (a) make or construct in, upon, across, under or over any lands, or any streets, hills, valleys, roads, railways or tramways, or any rivers, canals, brooks, streams or other waters, or any drains, water-pipes, gas-pipes or telegraph lines, such temporary or permanent inclined planes, arches, tunnels, culverts, embankments, aqueducts, bridges, roads, <sup>2</sup>[lines of railway], ways, passages, conduits, drains, piers, cuttings and fences as the railway administration thinks proper ;
- (b) alter the course of any rivers, brooks, streams, or watercourses, for the purpose of constructing and maintaining tunnels, bridges, passages or other works over or under them, and divert or alter, as well temporarily as permanently, the course of any rivers, brooks, streams or watercourses or any roads, streets or ways, or raise or sink the level thereof, in order the more conveniently to carry them over or under or by the side of the railway, as the railway administration thinks proper ;
- (c) make drains or conduits into, through or under any lands adjoining the railway for the purpose of conveying water from or to the railway ;

<sup>1</sup> Cf. the Railways Clauses Act, 1845 (9 & 10 Vict., c. 20), s. 16.

<sup>2</sup> These words were added by the Indian Railways Act (1890) Amendment Act, 1896 (9 of 1896), s. 1, *infra*.

*(Chapter III.—Construction and Maintenance of Works.)*

- (d) erect and construct such houses, warehouses, offices and other buildings, and such yards, stations, wharves, engines, machinery, apparatus and other works and conveniences as the railway administration thinks proper ;
- (e) alter, repair or discontinue such buildings, works and conveniences as aforesaid or any of them and substitute others in their stead ; and
- (f) do all other acts necessary for making, maintaining, altering or repairing and using the railway.

(2) The exercise of the powers conferred on a railway administration by sub-section (1) shall be subject to the control of the Governor General in Council.

8. A railway administration may, for the purpose of exercising the powers conferred upon it by this Act, alter the position of any pipe for the supply of gas, water or compressed air or the position of any electric wire or of any drain not being a main drain :

Alteration of pipes, wires and drains.

Provided that—

- (a) when the railway administration desires to alter the position of any such pipe, wire or drain, it shall give reasonable notice of its intention to do so, and of the time at which it will begin to do so, to the <sup>1</sup> local authority or company having control over the pipe, wire or drain, or, when the pipe, wire or drain is not under the control of a local authority or company, to the person under whose control the pipe, wire or drain is ;
- (b) a local authority, company or person receiving notice under proviso (a) may send a person to superintend the work, and the railway administration shall execute the work to the reasonable satisfaction of the person so sent and shall make arrangements for continuing during the execution of the work the supply of gas, water, compressed air or electricity or the maintenance of the drainage, as the case may be.

9.<sup>2</sup> (1) The Governor General in Council may authorize any railway administration, in case of any slip or other accident happening or being apprehended to any cutting, embankment or other work under the control of the railway administration, to enter upon any lands adjoining its railway for the purpose of repairing or preventing the accident, and to do all such works as may be necessary for the purpose.

Temporary entry upon land for repairing or preventing accident.

<sup>1</sup> For definition of "local authority," see s. 135 (5), *infra*, p. 75, and the General Clauses Act, 1897 (10 of 1897), s. 3 (2\*), *infra*.

<sup>2</sup> Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 14.

## (Chap. III.—Construction and Maintenance of Works.)

(2) In case of necessity the railway administration may enter upon the lands and do the works aforesaid without having obtained the previous sanction of the Governor General in Council, but in such a case shall, within seventy-two hours after such entry, make a report to the Governor General in Council, specifying the nature of the accident or apprehended accident, and of the works necessary to be done, and the power conferred on the railway administration by this sub-section shall cease and determine if the Governor General in Council, after considering the report, considers that the exercise of the power is not necessary for the public safety.

Payment of compensation for damage caused by lawful exercise of powers under section 7, 8 or 9.

10. (1) A railway administration shall do as little damage as possible in the exercise of the powers conferred by any of the three last foregoing sections, and compensation shall be paid for any damage caused by the exercise thereof.

(2) A suit shall not lie to recover such compensation, but in case of dispute the amount thereof shall, on application to the Collector, be determined and paid in accordance, so far as may be, <sup>1</sup>[with the provisions of sections 11 to 15, both inclusive, sections 18 to 34, both inclusive, and sections 53 and 54 of the Land Acquisition Act, 1894, and the provisions of sections 51 and 52 of that Act shall apply to the award of compensation].

Accommodation works.

11.<sup>2</sup> (1) A railway administration shall make and maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway, namely :—

I of 1894.

- (a) such and so many convenient crossings, bridges, arches, culverts and passages over, under or by the sides of, or leading to or from, the railway as may, in the opinion of the Governor General in Council, be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made, and
- (b) all necessary arches, tunnels, culverts, drains, watercourses or other passages, over or under or by the sides of the railway, of such dimensions as will, in the opinion of the Governor General in Council, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be.

(2) Subject to the other provisions of this Act, the work specified in

<sup>1</sup> These words and figures were substituted for the words and figures "with the provisions of sections 11 to 15, both inclusive, and sections 18 to 42, both inclusive, of the Land Acquisition Act, 1870, and the provisions of sections 57 and 58 of that Act shall apply to the award of compensation," by the Indian Railways Act (1890) Amendment Act, 1896 (9 of 1896), s. 2, *infra*.

<sup>2</sup> Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 68.

*(Chap. III.—Construction and Maintenance of Works.)*

clauses (a) and (b) of sub-section (1) shall be made during or immediately after the laying out or formation of the railway over the lands traversed thereby and in such manner as to cause as little damage or inconvenience as possible to persons interested in the lands or affected by the works.

(3) The foregoing provisions of this section are subject to the following provisos, namely :—

- (a) a railway administration shall not be required to make any accommodation works in such a manner as would prevent or obstruct the working or using of the railway, or to make any accommodation works with respect to which the owners and occupiers of the lands have agreed to receive and have been paid compensation in consideration of their not requiring the works to be made ;
- (b)<sup>1</sup> save as hereinafter in this Chapter provided, a railway administration shall not, except on the requisition of the Governor General in Council, be compelled to defray the cost of executing any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic ;
- (c) where a railway administration has provided suitable accommodation for the crossing of a road or stream, and the road or stream is afterwards diverted by the act or neglect of the person having the control thereof, the administration shall not be compelled to provide other accommodation for the crossing of the road or stream.

(4)<sup>2</sup> The Governor General in Council may appoint a time for the commencement of any work to be executed under sub-section (1), and if for fourteen days next after that time the railway administration fails to commence the work or, having commenced it, fails to proceed diligently to execute it in a sufficient manner, the Governor General in Council may execute it and recover from the railway administration the cost incurred by him in the execution thereof.

12.<sup>3</sup> If an owner or occupier of any land affected by a railway considers the works made under the last foregoing section to be insufficient for the commodious use of the land, or if the Local Government or a local authority

Power for owner, occupier or local authority to cause addi-

<sup>1</sup> Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 78.

<sup>2</sup> Cf. *ibid.*, s. 70.

<sup>3</sup> Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 71.

*(Chap. III.—Construction and Maintenance of Works.)*

tional accom-  
modation ;  
works to be  
made.

desires to construct a public road or other work across, under or over a railway, he or it, as the case may be, may at any time require the railway administration to make at his or its expense such further accommodation works as he or it thinks necessary and are agreed to by the railway administration or, in case of difference of opinion, may be authorized by the Governor General in Council.

Fences,  
screens, gates  
and bars.

13.<sup>1</sup> The Governor General in Council may require that, within a time to be specified in the requisition, or within such further time as he may appoint in this behalf,—

- (a) boundary-marks or fences be provided or renewed by a railway administration for a railway or any part thereof and for roads constructed in connection therewith ;
- (b)<sup>2</sup> any works in the nature of a screen near to or adjoining the side of any public road constructed before the making of a railway be provided or renewed by a railway administration for the purpose of preventing danger to passengers on the road by reason of horses or other animals being frightened by the sight or noise of the rolling-stock moving on the railway ;
- (c)<sup>3</sup> suitable gates, chains, bars, stiles or handrails be erected or renewed by a railway administration at places where a railway crosses a public road on the level ;
- (d)<sup>4</sup> persons be employed by a railway administration to open and shut such gates, chains or bars.

Over and  
under  
bridges.

14.<sup>5</sup> (1) Where a railway administration has constructed a railway across a public road on the level, the Governor General in Council may at any time, if it appears to him necessary for the public safety, require the railway administration, within such time as he thinks fit, to carry the road either under or over the railway by means of a bridge or arch, with convenient ascents and descents and other convenient approaches, instead of crossing the road on the level, or to execute such other works as, in the circumstances of the case, may appear to the Governor General in Council to be best adapted for removing or diminishing the danger arising from the level-crossing.

(2)<sup>6</sup> The Governor General in Council may require as a condition of

<sup>1</sup> Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 10.

<sup>2</sup> Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 63.

<sup>3</sup> Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 9.

<sup>4</sup> Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 48.

<sup>5</sup> Cf. the Railways Clauses Act, 1863 (26 & 27 Vict., c. 92), s. 7.

<sup>6</sup> Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 46, and the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 16.

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making a requisition under sub-section (1), that the local authority, if any, which maintains the road, shall undertake to pay the whole of the cost to the railway administration of complying with the requisition or such portion of the cost as the Governor General in Council thinks just.

15.<sup>1</sup> (1) In either of the following cases, namely :—

(a) where there is danger that a tree standing near a railway may fall on the railway so as to obstruct traffic,

(b) when a tree obstructs the view of any fixed signal,

the railway administration may, with the permission of any Magistrate, fell the tree or deal with it in such other manner as will in the opinion of the railway administration avert the danger or remove the obstruction, as the case may be.

Removal of trees dangerous to or obstructing the working of a railway.

(2) In case of emergency the power mentioned in sub-section (1) may be exercised by a railway administration without the permission of a Magistrate.

(3) Where a tree felled or otherwise dealt with under sub-section (1) or sub-section (2) was in existence before the railway was constructed or the signal was fixed, any Magistrate may, upon the application of the persons interested in the tree, award to those persons such compensation as he thinks reasonable.

(4) Such an award, subject, where made in a presidency-town by any Magistrate other than the Chief Presidency Magistrate or, where made elsewhere by any Magistrate other than the District Magistrate, to revision by the Chief Presidency Magistrate, or the District Magistrate, as the case may be, shall be final.

(5) A Civil Court shall not entertain a suit to recover compensation for any tree felled or otherwise dealt with under this section.

<sup>1</sup> Cf. the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), s. 24.



## (Chap. IV.—Opening of Railways.)

## CHAPTER IV.

## OPENING OF RAILWAYS.

Right to use locomotives.

16.<sup>1</sup> (1) A railway administration may, with the previous sanction of the Governor General in Council,<sup>2</sup> use upon a railway locomotive engines or other motive power, and rolling-stock to be drawn or propelled thereby.

(2) But rolling-stock shall not be moved upon a railway by steam or other motive power until such general rules for the railway as may be deemed to be necessary have been made, sanctioned and published under this Act.

Notice of intended opening of a railway.

17. (1) Subject to the provisions of sub-section (2), a railway administration shall, one month at least before it intends to open any railway for the public carriage of passengers, give to the Governor General in Council notice in writing of its intention.

(2) The Governor General in Council may, in any case, if he thinks fit, reduce the period of, or dispense with, the notice mentioned in sub-section (1).

Sanction of the Government a condition precedent to the opening of a railway.

18. A railway shall not be opened for the public carriage of passengers until the Governor General in Council, or an Inspector empowered by the Governor General in Council in this behalf, has by order sanctioned the opening thereof for that purpose.

Procedure in sanctioning the opening of a railway.

19. (1) The sanction of the Governor General in Council under the last foregoing section shall not be given until an Inspector has, after inspection of the railway, reported in writing to the Governor General in Council—

- (a) that he has made a careful inspection of the railway and rolling-stock ;
- (b) that the moving and fixed dimensions prescribed by the Governor General in Council have not been infringed ;

<sup>1</sup> Cf. the Railways Clauses Act, 1845 (8 & 9 Vict. c. 20), s. 86.

<sup>2</sup> For notifications sanctioning the use of motive power and rolling-stock on railways in—

- (1) Assam, *see* Gazette of India, 1883, Pt. I, p. 21; *ibid*, 1885, Pt. I, p. 588; *ibid*, 1893, Pt. I, p. 178;
- (2) Bengal (including districts now under Eastern Bengal and Assam), *see* Gazette of India, 1879, Pt. I, p. 428; *ibid*, 1880, Pt. I, p. 30; *ibid*, 1883, Pt. I, p. 21; *ibid*, 1884, Pt. I, p. 322; *ibid*, 1885, Pt. I, p. 580; *ibid*, 1888, Pt. I, p. 148, and others too numerous to be included in this foot-note;
- (3) Bombay, *see* Bom. R. & O., Vol. I;
- (4) Burma, *see* Bur. R. M., Vol. I;
- (5) Central Provinces, *see* Gazette of India, 1885, Pt. I, p. 683, etc.;
- (6) Madras, *see* Mad. R. & O., Vol. I;
- (7) United Provinces of Agra and Oudh, *see* Gazette of India, 1879, Pt. I, p. 428; *ibid*, 1884, Pt. I, p. 322; and *ibid*, 1895, Pt. I, p. 396, etc.;
- (8) Punjab, *see* Punj. List of Local R. & O.; Gazette of India, 1879, Pt. I, p. 428; *ibid*, 1884, Pt. I, p. 322; *ibid*, 1885, Pt. I, p. 588, etc.

## (Chap. IV.—Opening of Railways.)

- (c)<sup>1</sup> that the weight of rails, strength of bridges, general structural character of the works, and the size of and maximum gross load upon the axles of any rolling-stock, are such as have been prescribed by the Governor General in Council ;
- (d) that the railway is sufficiently supplied with rolling-stock ;
- (e) that general rules for the working of the railway when opened for the public carriage of passengers have been made, sanctioned and published under this Act ; and
- (f) that, in his opinion, the railway can be opened for the public carriage of passengers without danger to the public using it.

(2)<sup>2</sup> If in the opinion of the Inspector the railway cannot be so opened without danger to the public using it, he shall state that opinion, together with the grounds therefor, to the Governor General in Council, and the Governor General in Council may thereupon order the railway administration to postpone the opening of the railway.

(3) An order under the last foregoing sub-section must set forth the requirements to be complied with as a condition precedent to the opening of the railway being sanctioned, and shall direct the postponement of the opening of the railway until those requirements have been complied with or the Governor General in Council is otherwise satisfied that the railway can be opened without danger to the public using it.

(4) The sanction given under this section may be either absolute or subject to such conditions as the Governor General in Council thinks necessary for the safety of the public.

(5) When sanction for the opening of a railway is given subject to conditions, and the railway administration fails to fulfil those conditions, the sanction shall be deemed to be void and the railway shall not be worked or used until the conditions are fulfilled to the satisfaction of the Governor General in Council.

20.<sup>3</sup> (1) The provisions of sections 17, 18 and 19 with respect to the opening of a railway shall extend to the opening of the works mentioned in sub-section (2) when those works form part of, or are directly connected with, a railway used for the public carriage of passengers and have been constructed after the inspection which preceded the first opening of the railway.

(2) The works referred to in sub-section (1) are additional lines of railway, deviation lines, stations, junctions and crossings on the level, and

Application of the provisions of the three last foregoing sections to material alterations of a railway.

<sup>1</sup>Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 16.

<sup>2</sup>Cf. *ibid.*, s. 6.

<sup>3</sup>Cf. the Regulation of Railways Act, 1871 (34 & 35 Vict., c. 78), s. 5.

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any alteration or re-construction materially affecting the structural character of any work to which the provisions of sections 17, 18 and 19 apply or are extended by this section.

Exceptional provision.

21. When an accident has occurred resulting in a temporary suspension of traffic, and either the original line and works have been rapidly restored to their original standard, or a temporary diversion has been laid for the purpose of restoring communication, the original line and works so restored, or the temporary diversion, as the case may be, may, in the absence of the Inspector, be opened for the public carriage of passengers, subject to the following conditions, namely :—

- (a) that the railway servant in charge of the works undertaken by reason of the accident has certified in writing that the opening of the restored line and works, or of the temporary diversion, will not in his opinion be attended with danger to the public using the line and works or the diversion ; and
- (b) that notice by telegraph of the opening of the line and works or the diversion shall be sent, as soon as may be, to the Inspector appointed for the railway.

Power to make rules with respect to the opening of railways.

22. The Governor General in Council may make <sup>1</sup> rules defining the cases in which, and in those cases the extent to which, the procedure prescribed in sections 17 to 20 (both inclusive) may be dispensed with.

Power to close an opened railway.

23. (1) When, after inspecting any open railway used for the public carriage of passengers, or any rolling-stock used thereon, an Inspector is of opinion that the use of the railway or of any specified rolling-stock will be attended with danger to the public using it, he shall state that opinion, together with the grounds therefor, to the Governor General in Council ; and the Governor General in Council may thereupon order that the railway be closed for the public carriage of passengers or that the use of the rolling-stock so specified be discontinued, or that the railway or the rolling-stock so specified be used for the public carriage of passengers on such conditions only as the Governor General in Council may consider necessary for the safety of the public.

(2)<sup>2</sup> An order under sub-section (1) must set forth the grounds on which it is founded.

Re-opening of a closed railway.

24. (1) When a railway has been closed under the last foregoing section, it shall not be re-opened for the public carriage of passengers until it has

<sup>1</sup> For rules, see Gazette of India, 1891, Pt. 1, p. 159, and Genl. Stat. R. & O., Vol. III.

<sup>2</sup> Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 16.

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been inspected and its re-opening sanctioned, in accordance with the provisions of this Act.

(2) When the Governor General in Council has ordered under the last foregoing section that the use of any specified rolling-stock be discontinued, that rolling-stock shall not be used until an Inspector has reported that it is fit for use and the Governor General in Council has sanctioned its use.

(3) When the Governor General in Council has imposed under the last foregoing section any conditions with respect to the use of any railway or rolling-stock, those conditions shall be observed until they are withdrawn by the Governor General in Council.

25. (1) The Governor General in Council may, by general or special order, authorize the discharge of any of his functions under this Chapter by an Inspector, and may cancel any sanction or order given by an Inspector discharging any such function or attach thereto any condition which the Governor General in Council might have imposed if the sanction or order had been given by himself.

Delegation of powers under this Chapter to Inspectors.

(2) A condition imposed under sub-section (1) shall for all the purposes of this Act have the same effect as if it were attached to a sanction or order given by the Governor General in Council.

## CHAPTER V.

### RAILWAY COMMISSIONS AND TRAFFIC FACILITIES.

#### *Railway Commissions.*

26.<sup>1</sup> (1) For the purposes of this Chapter the Governor General in Council shall, as occasion may in his opinion require, appoint a Commission, styled a Railway Commission (in this Act referred to as the Commissioners), and consisting of one Law Commissioner and two Lay Commissioners.

Constitution of Railway Commission.

(2) The Commissioners shall sit at such times and in such places as the Governor General in Council appoints.

(3) The Law Commissioner shall be such Judge of the High Court having jurisdiction in reference to European British subjects under the <sup>2</sup>Code of Criminal Procedure, 1882, in the place where the Commissioners are to sit as, in the case of a High Court established under the Statute 24 and 25

X of 1882.

<sup>1</sup> Cf. the Railway and Canal Traffic Act, 1854 (17 & 18 Vict., c. 31); the Regulation of Railways Act, 1878 (36 & 37 Vict., c. 48); and the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25).

<sup>2</sup> See now Act 5 of 1898, Genl. Acts, Vol. V.

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Victoria, Chapter 104,<sup>1</sup> the Chief Justice or, in the case of the Chief Court of the Punjab, the Senior Judge or, in the case of the <sup>2</sup> Court of the Recorder of Rangoon, the Chief Commissioner of Burma may, on the request of the Governor General in Council, assign by writing under his hand.

(4) The Lay Commissioners shall be appointed by the Governor General in Council, and one at least of them shall be of experience in railway business.

27. The Commissioners shall take cognizance of such cases only as are referred to them by the Governor General in Council.

Restriction  
of jurisdic-  
tion of  
Railway  
Commission  
to cases  
specially  
referred.

Reference of  
cases to  
Railway  
Commission.

28. In any of the following circumstances, namely :—

(a) where complaint is made to the Governor General in Council of any thing done or any omission made by a railway administration in violation or contravention of any provision of this Chapter ;

(b) where any difference which is under the provisions of any agreement required or authorized to be referred to arbitration arises between railway administrations, and the railway administrations apply to the Governor General in Council to have it referred to the Commissioners ;

(c)<sup>3</sup> where any other difference, being a difference between railway administrations or one to which a railway administration is a party, arises, and the parties thereto apply to the Governor General in Council to have it referred to the Commissioners ;

the Governor General in Council may, if he thinks fit, refer the case to the Commissioners for decision.

29. The three Commissioners shall attend at the hearing of any case referred to them for decision under this Chapter, and the Law Commissioner shall preside at the hearing.

30. (1) In hearing any such case the Commissioners shall have the powers which may be exercised in the hearing of an original civil suit by a High Court.

(2) The decision shall, if the Commissioners differ in opinion, be in accord-

<sup>1</sup> The Indian High Courts Act, 1861, Coll. Stats., Ind., Vol. I.

<sup>2</sup> There is now no longer a "Court of the Recorder of Rangoon," a Chief Court having been established for Burma in place of that Court, see the Lower Burma Courts Act, 1900 (6 of 1900). The Chief Commissioner is now the Lieutenant-Governor of Burma, see Proclamation of 9th April 1897, Gazette of India, 1897, Pt. I, p. 261.

<sup>3</sup> Cf. the Regulation of Railways Act, 1873 (36 & 37 Vict., c. 48), s. 9.

Constitution  
of Railway  
Commission  
in session.

Powers of  
Railway  
Commission.

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ance with the opinion of the majority, and the final order in the case shall be by way of injunction and not otherwise.

(3)<sup>1</sup> At the hearing the Commissioners may permit any party to appear before them either by himself or by any legal practitioner entitled to practice in any High Court.

31. (1) An Appeal shall not lie from any order of the Commissioners upon any question of fact on which two of the Commissioners are agreed.

Appeals  
from orders  
of Railway  
Commission.

(2) Subject to the provisions of sub-section (1), an appeal shall lie from an order of the Commissioners—

(a) where the Law Commissioner was the Recorder or Additional Recorder of Rangoon, to the High Court of Judicature at Fort William in Bengal, and

(b) in any other case, to the High Court of which the Law Commissioner was a member.

(3) Such an appeal must be presented within six months from the date of the order appealed from, and shall be heard by a bench of as many Judges, not being fewer than three, as the High Court may by rule prescribe.

(4) In the hearing of the appeal the High Court shall, subject to the other provisions of this Chapter, have all the powers which it has as an Appellate Court under the <sup>2</sup> Code of Civil Procedure and may make any order which the Commissioners could have made.

XIV of 1882.

32. Notwithstanding any appeal to the High Court from an order of the Commissioners, the order shall, unless the Commissioners or the majority of them see fit to suspend it, continue in operation until it is reversed or varied by that Court.

Operation of  
orders of  
Railway  
Commission.

33. (1) The Commissioners, in the exercise of their jurisdiction under this Chapter, may, from time to time, with the general or special sanction of the Governor General in Council, call in one or more persons of engineering or other technical knowledge to act as assessors.

Assessors.

(2) There shall be paid to such persons such remuneration as the Governor General in Council upon the recommendation of the Commissioners may direct.

34. The Governor General in Council may make <sup>2</sup> rules regulating proceedings before the Commissioners and enabling the Commissioners to carry into effect the provisions of this Chapter, and prescribing fees to be taken in relation to proceedings before the Commissioners.

Power of the  
Governor  
General  
in Council  
to make rules  
for the  
purposes  
of this  
Chapter.

<sup>1</sup> Cf. the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 50.

<sup>2</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.

<sup>3</sup> For such rules, see Genl. Stat. R. & O., Vol. III.

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Costs of proceedings under this Chapter.

35. The costs of and incidental to any proceedings before the Commissioners or the High Court under this Chapter shall be in the discretion of the Commissioners or the High Court, as the case may be, and the payment of costs awarded by the Commissioners may be enforced by the Court of which the Law Commissioner was a Judge as if the payment had been ordered by a decree of a High Court.

Execution of order of Railway Commission and High Court.

36.<sup>1</sup> (1) The Court of which the Law Commissioner was a Judge may, if it appears on the application of any person who was a party to the proceedings before the Commissioners or on appeal before the High Court, or of the representative of any such person, that an injunction made under this Chapter by the Commissioners or by a High Court has not been obeyed by the party enjoined, order such party to pay a sum not exceeding one thousand rupees for every day during which the injunction is disobeyed after the date of the order directing such payment.

Evidence of documents.

(2) The payment of such sum may be enforced by the Court which made the order as if that Court had given a decree for the same, and the Court may direct that the whole or any part of the sum shall be paid to the person making the application under sub-section (1) or to the Government.

37. A document purporting to be signed by the Commissioners, or any of them, shall be received in evidence without proof of the signature, and shall, until the contrary is proved, be deemed to have been so signed and to have been duly executed or issued by the Commissioners.

Submission to the Governor General in Council of special reports by Railway Commission.

38. The Commissioners shall, as soon as may be after the disposal of each case referred to them, submit to the Governor General in Council a special report on the case, and the Governor General in Council shall cause the report to be published in such manner as he thinks fit for the information of persons interested in the subject-matter thereof.

Dissolution of Railway Commission.

39. Except for the purpose of the last foregoing section, a Railway Commission shall be deemed to be dissolved at the close of the last of the sittings of the Commissioners for the decision of the cases referred to them :

Provided that, on the application of any person who was a party to the proceedings before the Commissioners, or of the representative of any such person, the Governor General in Council may, if he thinks fit, in any case in which the order passed by the Commissioners is not open to appeal, re-appoint the Commissioners for the purpose of hearing an application for a review of their decision and of granting the same and re-hearing the case if they think that the case should be re-heard.

<sup>1</sup> Cf. the Railway and Canal Traffic Act, 1854 (17 & 18 Vict., c. 81), s. 8.

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40. Subject to the foregoing provisions of this Chapter and to any direction of Her Majesty in Council, an order of the Commissioners shall be final and shall not be questioned in or restrained by any Court.

Finality of orders of Railway Commission subject to the foregoing provisions of this Chapter.

41.<sup>1</sup> Except as provided in this Act, no suit shall be instituted or proceeding taken for anything done or any omission made by a railway administration in violation or contravention of any provision of this Chapter or of any order made thereunder by the Commissioners or by a High Court.

Bar of jurisdiction of ordinary Courts in certain matters cognizable by Railway Commission.

*Traffic Facilities.*

42.<sup>2</sup> (1) Every railway administration shall, according to its powers, afford all reasonable facilities for the receiving, forwarding and delivering of traffic upon and from the several railways belonging to or worked by it and for the return of rolling-stock.

Duty of railway administrations to arrange for receiving and forwarding traffic without unreasonable delay and without partiality.

(2) A railway administration shall not make or give any undue or unreasonable preference or advantage to or in favour of any particular person or railway administration, or any particular description of traffic, in any respect whatsoever, or subject any particular person or railway administration or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

(3) A railway administration having or working railways which form part of a continuous line of railway communication, or having its terminus or station within one mile of the terminus or station of another<sup>3</sup> railway administration, shall afford all due and reasonable facilities for receiving and forwarding by one of such railways all the traffic arriving by the other at such terminus or station, without any unreasonable delay, and without any such preference or advantage or prejudice or disadvantage as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways as a continuous line of communication, and so that all reasonable accommodation may by means of such railways be at all times afforded to the public in that behalf.

(4) The facilities to be afforded under this section shall include the due and reasonable receiving, forwarding and delivering by every railway

<sup>1</sup> Cf. the Railway and Canal Traffic Act, 1854 (17 & 18 Vict., c. 31), s. 6.

<sup>2</sup> Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 90; the Railway and Canal Traffic Act, 1854 (17 & 18 Vict., c. 31), s. 2; and the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 25.

<sup>3</sup> Cf. the Railway and Canal Traffic Act, 1854 (17 & 18 Vict., c. 31), s. 1.



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administration, at the request of any other railway administration, of through traffic to and from the railway of any other railway administration at through rates :

Provided as follows :—

- (a) the railway administration requiring the traffic to be forwarded shall give written notice of the proposed through rate to each forwarding railway administration, stating both its amount and its apportionment and the route by which the traffic is proposed to be forwarded. The proposed through rate for animals or goods may be per truck or per maund ;
- (b) each forwarding railway administration shall, within the prescribed period after the receipt of such notice, by written notice inform the railway administration requiring the traffic to be forwarded whether it agrees to the rate, apportionment and route, and, if it has any objection, what the grounds of the objection are ;
- (c) if at the expiration of the prescribed period no such objection has been sent by any forwarding railway administration, the rate shall come into operation at the expiration of that period ;
- (d) if an objection to the rate, apportionment or route has been sent within the prescribed period, the Governor General in Council may, if he thinks fit, on the request of any of the railway administrations, refer the case to the Commissioners for their decision ;
- (e) if the objection is to the granting of the rate or to the route, the Commissioners shall consider whether the granting of the rate is a due and reasonable facility in the interests of the public, and whether, regard being had to the circumstances, the route proposed is a reasonable route, and shall allow or refuse the rate accordingly or fix such other rate as may seem to the Commissioners to be just and reasonable ;
- (f) if the objection is only to the apportionment of the rate, and the case has been referred to the Commissioners, the rate shall come into operation at the expiration of the prescribed period, but the decision of the Commissioners as to its apportionment shall be retrospective : in the case of any other objection the operation of the rate shall be suspended until the Commissioners make their order in the case ;
- (g) the Commissioners in apportioning the through rate shall take into

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consideration all the circumstances of the case, including any special expense incurred in respect of the construction, maintenance or working of the route or any part of the route, as well as any special charges which any railway administration is entitled to make in respect thereof ;

- (h) the Commissioners shall not in any case compel any railway administration to accept lower mileage rates than the mileage rates which the administration may for the time being legally be charging for like traffic carried by a like mode of transit on any other line of communication between the same points, being the points of departure and arrival of the through route ;
- (i) <sup>1</sup> subject to the foregoing provisions of this sub-section, the Commissioners shall have full power to decide that any proposed through rate is due and reasonable notwithstanding that a less amount may be allotted to any forwarding railway administration out of the through rate than the maximum rate which the railway administration is entitled to charge, and to allow and apportion the through rate accordingly ;
- (j) the prescribed period mentioned in this sub-section shall be one month, or such longer period as the Governor General in Council may by general or special order prescribe.

**43.<sup>3</sup>** (1) Whenever it is shown that a railway administration charges one trader or class of traders or the traders in any local area lower rates for the same or similar animals or goods, or lower rates for the same or similar services, than it charges to other traders or classes of traders, or to the traders in another local area, the burden of proving that such lower charge does not amount to an undue preference shall lie on the railway administration.

Undue preference in case of unequal rates for like traffic for services.

(2) In deciding whether a lower charge does or does not amount to an undue preference, the Commissioners may, so far as they think reasonable, in addition to any other considerations affecting the case, take into consideration whether such lower charge is necessary for the purpose of securing, in the interests of the public, the traffic in respect of which it is made.

**44.<sup>3</sup>** Where a railway administration is a party to an agreement for procuring the traffic of the railway to be carried on any inland water by any ferry, ship, boat or raft which does not belong to or is not hired or worked by the railway administration, the provisions of the two last foregoing sections

Provision for facilities and equal treatment where ships or boats are used

<sup>1</sup> Cf. the Regulation of Railways Act, 1873 (36 & 37 Vict., c. 48), s. 12.

<sup>2</sup> Cf. the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 27.

<sup>3</sup> Cf. the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 25.

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which are not applicable to a railway shall extend to the ferry, ship, boat or raft in so far as it is used for the purposes of the traffic of the railway.

Terminals.

45. A railway administration may charge reasonable terminals.

Power of  
Railway  
Commission  
to fix  
terminals.

46.<sup>1</sup> (1) The Governor General in Council may, if he thinks fit, refer to the Commissioners for decision any question or dispute which may arise with respect to the terminals charged by a railway administration, and the Commissioners may thereupon decide what is a reasonable sum to be paid to the railway administration in respect of terminals.

(2)<sup>2</sup> In deciding the question or dispute, the Commissioners shall have regard only to the expenditure reasonably necessary to provide the accommodation in respect of which the terminals are charged, irrespective of the outlay which may have been actually incurred by the railway administration in providing that accommodation.

## CHAPTER VI.

### WORKING OF RAILWAYS.

#### *General.*

General  
rules.

47.<sup>3</sup> (1) Every railway company and, in the case of a railway administered by the Government, an officer to be appointed by the Governor General in Council in this behalf, shall make <sup>4</sup> general rules consistent with this Act for the following purposes, namely :—

- (a) for regulating the mode in which, and the speed at which, rolling-stock used on the railway is to be moved or propelled ;
- (b) for providing for the accommodation and convenience of passengers and regulating the carriage of their luggage ;
- (c) for declaring what shall be deemed to be, for the purposes of this Act, dangerous or offensive goods, and for regulating the carriage of such goods ;
- (d) for regulating the conditions on which the railway administration will carry passengers suffering from infectious or contagious disorders, and providing for the disinfection of carriages which have been used by such passengers ;

<sup>1</sup> Cf. the Regulation of Railways Act, 1873 (36 & 37 Vict., c. 48), s. 15.

<sup>2</sup> Cf. the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 24 (1).

<sup>3</sup> Cf. the Railways Regulation Act, 1840 (3 & 4 Vict., c. 97), ss. 7 to 9, and the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 10.

<sup>4</sup> For general rules for working railways under construction, see Genl. Stat. R. & O., vol. III.

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(e) for regulating the conduct of the <sup>1</sup> railway servants ;

(f)<sup>2</sup> for regulating the terms and conditions on which the railway administration will warehouse or retain goods at any station on behalf of the consignee or owner ; and

(g)<sup>3</sup> generally, for regulating the travelling upon, and the use, working and management of, the railway.<sup>4</sup>

(2) The rules may provide that any person committing a breach of any of them shall be punished with fine which may extend to any sum not exceeding fifty rupees,<sup>5</sup> and that in the case of a rule made under clause (e) of sub-section (1), the railway servants shall forfeit a sum not exceeding one month's pay, which sum may be deducted by the railway administration from his pay.

(3) A rule made under this section shall not take effect until it has received the sanction of the Governor General in Council and been published in the Gazette of India :

Provided that, where the rule is in the terms of a rule which has already been published at length in the Gazette of India, a notification in that Gazette, referring to the rule already published and announcing the adoption thereof, shall be deemed a publication of a rule in the Gazette of India within the meaning of this sub-section.

(4) The Governor General in Council may cancel any rule made under this section, and the authority required by sub-section (1) to make rules thereunder may at any time, with the previous sanction of the Governor General in Council, rescind or vary any such rule.

IV of 1879.

(5) Every rule purporting to have been made for any railway under section 8 of the <sup>6</sup> Indian Railways Act, 1879, and appearing from the Gazette of India to be intended to apply to the railway at the commencement of this Act, shall, notwithstanding any irregularity in the making or

<sup>1</sup> For rules for the guidance of railway officials employed on lines administered by the Government, *see* Genl. Stat. R. & O., Vol. III.

<sup>2</sup> For rules applicable to all railways in British India regulating the terms and conditions on which railway administrations will warehouse or retain goods at any station or depôt on behalf of consignee or owner, *see* Genl. Stat. R. & O., Vol. III.

<sup>3</sup> For general rules made by the Director General of Railways for all open lines of railway in British India administered by the Government, *see* Genl. Stat. R. & O., Vol. III.

<sup>4</sup> *Cf.* the Railways Clauses Act, 1863 (26 & 27 Vict., c. 32), s. 32.

<sup>5</sup> *Cf.* the Canadian Railway Act, 1886 (49 Vict., c. 109), s. 86.

<sup>6</sup> Repealed by this Act.

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publication of the rule, be deemed to have been made and to have taken effect under this section.

(6) Every railway administration shall keep at each station on its railway a copy of the general rules for the time being in force under this section on the railway, and shall allow any person to inspect it free of charge at all reasonable times.

Disposal of differences between railways regarding conduct of joint traffic.

48. <sup>1</sup> Where two or more railway administrations whose railways have a common terminus or a portion of the same line of rails in common, or form separate portions of one continued line of railway communication, are not able to agree upon arrangements for conducting at such common terminus, or at the point of junction between them, their joint traffic with safety to the public, the Governor General in Council, upon the application of either or any of the administrations, may decide the matters in dispute between them, so far as those matters relate to the safety of the public, and may determine whether the whole or what proportion of the expenses attending on such arrangements shall be borne by either or any of the administrations respectively.

Agreements with the Governor General in Council for construction or lease of rolling-stock.

49. <sup>2</sup> Any railway company, not being a company for which the <sup>3</sup> Statute 42 and 43 Vict., Chap. 41, provides, may from time to time make and carry into effect agreements with the Governor General in Council for the construction of rolling-stock, plant or machinery used on, or in connection with, railways, or for leasing or taking on lease any rolling-stock, plant, machinery or equipments required for use on a railway, or for the maintenance of rolling-stock.

Powers of railway companies to enter into working agreements.

50. <sup>4</sup> Any railway company, not being a company for which the <sup>3</sup> Statute 42 and 43 Vict., Chap. 41, provides, may from time to time make with the Governor General in Council, and carry into effect, or, with the sanction of the <sup>5</sup> Governor General in Council, make with any other railway <sup>6</sup> administration, and carry into effect, any agreement with respect to any of the following purposes, namely :—

(a) the working, use, management and maintenance of any railway ;

<sup>1</sup> Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 11, and the Railways Clauses Act, 1863 (26 & 27 Vict., c. 92), s. 9.

<sup>2</sup> Cf. the Indian Guaranteed Railways Act, 1879 (42 & 43 Vict., c. 4), s. 4 (d).

<sup>3</sup> The Indian Guaranteed Railways Act, 1879, Coll. Stats., Ind., Vol. II.

<sup>4</sup> Cf. the Indian Guaranteed Railways Act, 1879 (42 & 43 Vict., c. 4), s. 2; the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 87; the Railways (Sales and Leases) Act, 1845 (8 & 9 Vict., c. 96); and the Railways Clauses Act, 1863 (26 & 27 Vict., c. 92), s. 22.

<sup>5</sup> The powers of the Governor General in Council have been delegated to the Railway Board subject to their being exercised in accordance with the general rules and orders on the subject issued by the Government of India, *see* Gazette of India, 1907, Pt. I, p. 273.

<sup>6</sup> For instance of such agreement, *see* Mad. B. & O., Vol. I.

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- (b) the supply of rolling-stock and machinery necessary for any of the purposes mentioned in clause (a) and of officers and servants for the conduct of the traffic of the railway ;
- (c) the payments to be made and the conditions to be performed with respect to such working, use, management and maintenance ;
- (d) the interchange, accommodation and conveyance of traffic being on, coming from or intended for, the respective railways of the contracting parties, and the fixing, collecting, apportionment and appropriation of the revenues arising from that traffic ;
- (e) generally, the giving effect to any such provisions or stipulations with respect to any of the purposes hereinbefore in this section mentioned as the contracting parties may think fit and mutually agree on :

Provided that the agreement shall not affect any of the rates which the railway administrations, parties thereto, are, from time to time, respectively authorized to demand and receive from any person, and that every person shall, notwithstanding the agreement, be entitled to the use and benefit of the railways of any railway administrations, parties to the agreement, on the same terms and conditions, and on payment of the same rates, as he would be if the agreement had not been entered into.

51.<sup>1</sup> Any railway company, not being a company for which the <sup>2</sup> Statute 42 and 43 Vict., Chap. 41, provides, may from time to time exercise with the sanction of the Governor General in Council all or any of the following powers, namely :—

Establish-  
ment of  
ferries and  
roadways for  
accommoda-  
tion of  
traffic.

- (a) it may establish, for the accommodation of the traffic of its railway, any ferry equipped with machinery and plant of good quality and adequate in quantity to work the ferry ;
- (b) it may work for purposes other than the accommodation of the traffic of the railway any ferry established by it under this section ;
- (c) it may provide and maintain on any of its bridges, roadways for foot-passengers, cattle, carriages, carts or other traffic ;
- (d) it may construct and maintain roads for the accommodation of traffic passing to or from its railway ;
- (e) it may provide and maintain any means of transport which may

<sup>1</sup> Cf. the Indian Guaranteed Railways Act, 1879 (42 & 43 Vict., c. 41), s. 4.

<sup>2</sup> The Indian Guaranteed Railways Act, 1879 (42 & 43 Vict., c. 41), Coll. Stats. Ind., Vol. II.

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be required for the reasonable convenience of passengers, animals or goods carried or to be carried on its railway ;

- (f) it may charge tolls on the traffic using such ferries, roadways, roads or means of transport as it may provide under this section, according to tariffs to be arranged from time to time with the sanction of the Governor General in Council.

Returns.

52.<sup>1</sup> Every railway administration shall, in forms to be prescribed by the Governor General in Council, prepare, half-yearly or at such intervals as the Governor General in Council may prescribe, such returns of its capital and revenue transactions and of its traffic as the Governor General in Council may require, and shall forward a copy of such returns to the Governor General in Council at such times as he may direct.

*Carriage of Property.*

Maximum load for wagons.

53.<sup>2</sup> (1) Every railway administration shall determine the maximum load for every wagon or truck in its possession, and shall exhibit the words or figures representing the load so determined in a conspicuous manner on the outside of every such wagon or truck.

(2) Every person owning a wagon or truck which passes over a railway shall similarly determine and exhibit the maximum load for the wagon or truck.

(3) The gross weight of any such wagon or truck bearing on the axles when the wagon or truck is loaded to such maximum load shall not exceed such limit as may be fixed by the Governor General in Council for the class of axle under the wagon or truck.

Power for railway administrations to impose conditions for working traffic.

54. (1) Subject to the control of the Governor General in Council, a railway administration may impose conditions, not inconsistent with this Act or with any general rule thereunder, with respect to the receiving, forwarding or delivering of any animals or goods.

(2) The railway administration shall keep at each station on its railway a copy of the conditions for the time being in force under sub-section (1) at the station, and shall allow any person to inspect it free of charge at all reasonable times.

(3) A railway administration shall not be bound to carry any animal suffering from any infectious or contagious disorder.

<sup>1</sup> Cf. the Railway Regulation Act, 1840 (3 & 4 Vict., c. 97), s. 3; the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), ss. 3 and 4; and the Regulation of Railways Act, 1871 (34 & 35 Vict., c. 78), ss. 9 and 10.

<sup>2</sup> Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 16.

55. (1) If a person fails to pay on demand made by or on behalf of a railway administration any rate, terminal or other charge due from him in respect of any animals or goods, the railway administration may detain the whole or any of the animals or goods or, if they have been removed from the railway, any other animals or goods of such person then being in or thereafter coming into its possession.

Lien for rates, terminals and other charges.

(2) When any animals or goods have been detained under sub-section (1), the railway administration may sell by public auction, in the case of perishable goods at once, and in the case of other goods or of animals on the expiration of at least fifteen days' notice of the intended auction, published<sup>2</sup> in one or more of the local newspapers, or, where there are no such newspapers, in such manner as the Governor General in Council may prescribe, sufficient of such animals or goods to produce a sum equal to the charge, and all expenses of such detention, notice and sale, including, in the case of animals, the expenses of the feeding, watering and tending thereof.

(3) Out of the proceeds of the sale the railway administration may retain a sum equal to the charge and the expenses aforesaid, rendering the surplus, if any, of the proceeds, and such of the animals or goods (if any) as remain unsold, to the person entitled thereto.

(4) If a person on whom a demand for any rate, terminal or other charge due from him has been made fails to remove from the railway within a reasonable time any animals or goods which have been detained under sub-section (1) or any animals or goods which have remained unsold after a sale under sub-section (2), the railway administration may sell the whole of them and dispose of the proceeds of the sale as nearly as may be under the provisions of sub-section (3).

(5) Notwithstanding anything in the foregoing sub-sections, the railway administration may recover by suit any such rate, terminal or other charge as aforesaid or balance thereof.

56. (1) When any animals or goods have come into the possession of a railway administration for carriage or otherwise and are not claimed by the owner or other person appearing to the railway administration to be entitled thereto, the railway administration shall, if such owner or person is known, cause a notice to be served upon him, requiring him to remove the animals or goods.

Disposal of unclaimed things on a railway.

<sup>1</sup> Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 97.

<sup>2</sup> For mode of publishing notices of auction sales in places where there are no local newspapers in Bombay, see Bom. Govt. Gazette, 1885, Pt. I, p. 1320.



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(2) If such owner or person is not known, or the notice cannot be served upon him, or he does not comply with the requisition in the notice, the railway administration may within a reasonable time, subject to the provisions of any other enactment for the time being in force, sell the animals or goods as nearly as may be under the provisions of the last foregoing section, rendering the surplus, if any, of the proceeds of the sale to any person entitled thereto.

Power for railway administrations to require indemnity on delivery of goods in certain cases.

57. Where any animals, goods or sale-proceeds in the possession of a railway administration are claimed by two or more persons, or the ticket or receipt given for the animals or goods is not forthcoming, the railway administration may withhold delivery of the animals, goods or sale-proceeds until the person entitled in its opinion to receive them has given an indemnity, to the satisfaction of the railway administration, against the claims of any other person with respect to the animals, goods or sale-proceeds.

Requisitions for written accounts of description of goods.

58. (1) The owner or person having charge of any goods which are brought upon a railway for the purpose of being carried thereon, and the consignee of any goods which have been carried on a railway, shall, on the request of any railway servant appointed in this behalf by the railway administration, deliver to such servant an account in writing signed by such owner or person, or by such consignee, as the case may be, and containing such a description of the goods as may be sufficient to determine the rate which the railway administration is entitled to charge in respect thereof.

(2) If such owner, person or consignee refuses or neglects to give such an account, and refuses to open the parcel or package containing the goods in order that their description may be ascertained, the railway administration may, (a) in respect of goods which have been brought for the purpose of being carried on the railway, refuse to carry the goods unless in respect thereof a rate is paid not exceeding the highest rate which may be in force at the time on the railway for any class of goods or, (b) in respect of goods which have been carried on the railway, charge a rate not exceeding such highest rate.

(3) If an account delivered under sub-section (1) is materially false with respect to the description of any goods to which it purports to relate, and which have been carried on the railway, the railway administration may charge in respect of the carriage of the goods a rate not exceeding double the highest rate which may be in force at the time on the railway for any class of goods.

(4) <sup>1</sup> If any difference arises between a railway servant and the owner or

<sup>1</sup> Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 101.

person having charge, or the consignee, of any goods which have been brought to be carried or have been carried on a railway, respecting the description of goods of which an account has been delivered under this section, the railway servant may detain and examine the goods.

(5) If it appears from the examination that the description of the goods is different from that stated in an account delivered under sub-section (1), the person who delivered the account, or, if that person is not the owner of the goods, then that person and the owner jointly and severally, shall be liable to pay to the railway administration the cost of the detention and examination of the goods, and the railway administration shall be exonerated from all responsibility for any loss which may have been caused by the detention or examination thereof.

(6) If it appears that the description of the goods is not different from that stated in an account delivered under sub-section (1), the railway administration shall pay the cost of the detention and examination, and be responsible to the owner of the goods for any such loss as aforesaid.

59. (1) No person shall be entitled to take with him, or to require a railway administration to carry, any dangerous or offensive goods upon a railway. Dangerous or  
offensive  
goods.

(2) No person shall take any such goods with him upon a railway without giving notice of their nature to the station-master or other railway servant in charge of the place where he brings the goods upon the railway, or shall tender or deliver any such goods for carriage upon a railway without distinctly marking their nature on the outside of the package containing them or otherwise giving notice in writing of their nature to the railway servant to whom he tenders or delivers them.

(3) Any railway servant may refuse to receive such goods for carriage, and, when such goods have been so received without such notice as is mentioned in <sup>1</sup> [sub-section (2)] having to his knowledge been given, may refuse to carry them or may stop their transit.

(4) If any railway servant has reason to believe any such goods to be contained in a package with respect to the contents whereof such notice as is mentioned in sub-section (2) has not to his knowledge been given, he may cause the package to be opened for the purpose of ascertaining its contents.

(5) Nothing in this section shall be construed to derogate from the Indian

<sup>1</sup> The words and figure "sub-section (2)" were substituted for the words and figure "sub-section (1)" by the Indian Railways Act (1890) Amendment Act, 1896 (9 of 1896), s. 3, *infra*.

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<sup>1</sup> Explosives Act, 1884, or any rule under that Act, and nothing in sub-sections (1), (3) and (4) shall be construed to apply to any goods tendered or delivered for carriage by order or on behalf of the Government or to any goods which an officer, soldier, sailor or police-officer or a person enrolled as a volunteer under the <sup>2</sup> Indian Volunteers Act, 1869, may take with him upon a railway in the course of his employment or duty as such. V of 1884.  
XX of 1869.

Exhibition to the public of authority for quoted rates.

60. <sup>3</sup> At every station at which a railway administration quotes a rate to any other station for the carriage of traffic other than passengers and their luggage, the railway servant appointed by the administration to quote the rate shall, at the request of any person, show to him at all reasonable times, and without payment of any fee, the rate books or other documents in which the rate is authorized by the administration or administrations concerned.

Requisitions on railway administrations for details of gross charges.

61. <sup>4</sup> (1) Where any charge is made by and paid to a railway administration in respect of the carriage of goods over its railway, the administration shall, on the application of the person by whom or on whose behalf the charge has been paid, render to the applicant an account showing how much of the charge comes under each of the following heads, namely :—

- (a) the carriage of the goods on the railway ;
- (b) terminals ;
- (c) demurrage ; and
- (d) <sup>5</sup> collection, delivery and other expenses ;

but without particularizing the several items of which the charge under each head consists.

(2) The application under sub-section (1) must be in writing and be made to the railway administration within one month after the date of the payment of the charge by or on behalf of the applicant, and the account must be rendered by the administration within two months after the receipt of the application.

*Carriage of Passengers.*

62. <sup>6</sup> The Governor General in Council may require any railway administration to provide and maintain in proper order, in any train worked by it which carries passengers, such efficient means of communication between

Communication between passengers and railway servants in

<sup>1</sup> Genl. Acts, Vol. III.

<sup>2</sup> Genl. Acts, Vol. II.

<sup>3</sup> Cf. the Regulation of Railways Act, 1873 (36 & 37 Vict., c. 43), s. 14, and the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 33.

<sup>4</sup> Cf. the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), s. 17.

<sup>5</sup> Cf. the Regulation of Railways Act, 1873 (36 & 37 Vict., c. 43), s. 14.

<sup>6</sup> Cf. the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), s. 22.

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the passengers and the railway servants in charge of the train as the Governor General in Council has approved. charge of trains.

63. Every railway administration shall fix, subject to the approval of the Governor General in Council, the maximum number of passengers which may be carried in each compartment of every description of carriage, and shall exhibit the number so fixed in a conspicuous manner inside or outside each compartment, in English or in one or more of the vernacular languages in common use in the territory traversed by the railway, or both in English and in one or more of such vernacular languages as the Governor General in Council, after consultation with the railway administration, may determine. Maximum number of passengers for each compartment.

64. (1) On and after the first day of January 1891, every railway administration shall, in every train carrying passengers, reserve for the exclusive use of females one compartment at least of the lowest class of carriage forming part of the train. Reservation of compartments for females.

(2) One such compartment so reserved shall, if the train is to run for a distance exceeding fifty miles, be provided with a closet.

65. Every railway administration shall cause to be posted in a conspicuous and accessible place at every station on its railway, in English and in a vernacular language in common use in the territory where the station is situate, a copy of the time-tables for the time being in force on the railway, and lists of the fares chargeable for travelling from the station where the lists are posted to every place for which card-tickets are ordinarily issued to passengers at that station. Exhibition of time-tables and tables of fares at stations.

66. (1) Every person desirous of travelling on a railway shall, upon payment of his fare, be supplied with a ticket, specifying the class of carriage for which, and the place from and the place to which, the fare has been paid and the amount of the fare. Supply of tickets on payment of fares.

(2) The matters required by sub-section (1) to be specified on a ticket shall be set forth—

- (a) if the class of carriage to be specified thereon is the lowest class, then in a vernacular language in common use in the territory traversed by the railway, and
- (b) if the class of carriage to be so specified is any other than the lowest class, then in English.

67. (1) Fares shall be deemed to be accepted, and tickets to be issued, subject to the condition of there being room available in the train for which the tickets are issued. Provision for case in which tickets have been issued for trains not having room available for additional

(2) A person to whom a ticket has been issued and for whom there is not room available in the train for which the ticket was issued shall on returning

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passengers.

the ticket within three hours after the departure of the train be entitled to have his fare at once refunded.

(3) A person for whom there is not room available in the class of carriage for which he has purchased a ticket and who is obliged to travel in a carriage of a lower class shall be entitled on delivering up his ticket to a refund of the difference between the fare paid by him and the fare payable for the class of carriage in which he travelled.

Prohibition against travelling without pass or ticket.

68. No person shall, without the permission of a railway servant, enter any carriage on a railway for the purpose of travelling therein as a passenger unless he has with him a proper pass or ticket.

Exhibition and surrender of passes and tickets.

69. Every passenger by railway shall, on the requisition of any railway servant appointed by the railway administration in this behalf, present his pass or ticket to the railway servant for examination, and at or near the end of the journey for which the pass or ticket was issued, or, in the case of a season pass or ticket, at the expiration of the period for which it is current, deliver up the pass or ticket to the railway servant.

Return and season tickets.

70. A return ticket or season ticket shall not be transferable and may be used only by the person for whose journey to and from the places specified thereon it was issued.

Power to refuse to carry person suffering from infectious or contagious disorder.

71. (1) A railway administration may refuse to carry, except in accordance with the conditions prescribed under section 47, sub-section (1), clause (d), a person suffering from any infectious or contagious disorder.

(2) A person suffering from such a disorder shall not enter or travel upon a railway without the special permission of the station-master or other railway servant in charge of the place where he enters upon the railway.

(3) A railway servant giving such permission as is mentioned in sub-section (2) must arrange for the separation of the person suffering from the disorder from other persons being or travelling upon the railway.

## CHAPTER VII.

### RESPONSIBILITY OF RAILWAY ADMINISTRATIONS AS CARRIERS.

Measure of the general responsibility of a railway administration as a carrier of animals and goods.

72. (1) The responsibility of a railway administration for the loss, destruction or deterioration of animals or goods delivered to the administration to be carried by railway shall, subject to the other provisions of this Act, be that of a bailee under sections 152 and 161 of the <sup>1</sup>Indian Contract Act, 1872. IX of 1872.

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(2) An agreement purporting to limit that responsibility shall, in so far as it purports to effect such limitation, be void, unless it—

(a) is in writing signed by or on behalf of the person sending or delivering to the railway administration the animals or goods, and

(b) is otherwise in a form approved by the Governor General in Council.

III of 1865.

(3) Nothing in the common law of England or in the <sup>2</sup> Carriers Act, 1865, regarding the responsibility of common carriers with respect to the carriage of animals or goods, shall affect the responsibility as in this section defined of a railway administration.

73.<sup>3</sup> (1) The responsibility of a railway administration under the last foregoing section for the loss, destruction or deterioration of animals delivered to the administration to be carried on a railway shall not in any case exceed, in the case of elephants or horses, five hundred rupees a head or, in the case of <sup>4</sup> [mules], camels or horned cattle, fifty rupees a head or, in the case of <sup>4</sup> [donkeys], sheep, goats, dogs or other animals, ten rupees a head, unless the person sending or delivering them to the administration caused them to be declared or declared them, at the time of their delivery for carriage by railway, to be respectively of higher value than five hundred, fifty or ten rupees a head, as the case may be.

Further provision with respect to the liability of a railway administration as a carrier of animals.

(2) Where such higher value has been declared, the railway administration may charge, in respect of the increased risk, a percentage upon the excess of the value so declared over the respective sums aforesaid.

(3) In every proceeding against a railway administration for the recovery of compensation for the loss, destruction or deterioration of any animal, the burden of proving the value of the animal, and, where the animal has been injured, the extent of the injury, shall lie upon the person claiming the compensation.

74. A railway administration shall not be responsible for the loss, destruction or deterioration of any luggage belonging to or in charge of a passenger unless a railway servant has booked and given a receipt therefor.

Further provision with respect to the liability of a railway administration as a carrier of luggage.

<sup>1</sup> For risk-note forms prescribed under this clause, see Genl. Stat. R. & O., Vol. III.

<sup>2</sup> Genl. Acts, Vol. I.

<sup>3</sup> Cf. the Railway and Canal Traffic Act, 1854 (17 & 18 Vict., c. 31), s. 7.

<sup>4</sup> The words "mules" and "donkeys" were added by the Indian Railways Act (1890) Amendment Act, 1896 (9 of 1896), s. 4, *infra*.

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Further provision with respect to the liability of a railway administration as a carrier of articles of special value.

75.<sup>1</sup> (1) When any articles mentioned in the second schedule are contained in any parcel or package delivered to a railway administration for carriage by railway, and the value of such articles in the parcel or package exceeds one hundred rupees, the railway administration shall not be responsible for the loss, destruction or deterioration of the parcel or package unless the person sending or delivering the parcel or package to the administration caused its value and contents to be declared or declared them at the time of the delivery of the parcel or package for carriage by railway, and, if so required by the administration, paid or engaged to pay a percentage on the value so declared by way of compensation for increased risk.

(2) When any parcel or package of which the value has been declared under sub-section (1) has been lost or destroyed or has deteriorated, the compensation recoverable in respect of such loss, destruction or deterioration shall not exceed the value so declared, and the burden of proving the value so declared to have been the true value shall, notwithstanding anything in the declaration, lie on the person claiming the compensation.

(3) A railway administration may make it a condition of carrying a parcel declared to contain any article mentioned in the second schedule that a railway servant authorized in this behalf has been satisfied by examination or otherwise that the parcel actually contains the article declared to be therein.

Burden of proof in suits in respect of loss of animals or goods.

76. In any suit against a railway administration for compensation for loss, destruction or deterioration of animals or goods delivered to a railway administration for carriage by railway, it shall not be necessary for the plaintiff to prove how the loss, destruction or deterioration was caused.

Notification of claims to refunds of overcharges and to compensation for losses.

77. A person shall not be entitled to a refund of an overcharge in respect of animals or goods carried by railway or to compensation for the loss, destruction or deterioration of animals or goods delivered to be so carried, unless his claim to the refund or compensation has been preferred in writing by him or on his behalf to the railway administration within six months from the date of the delivery of the animals or goods for carriage by railway.

Exoneration from responsibility in case of goods falsely described.

78. Notwithstanding anything in the foregoing provisions of this chapter, a railway administration shall not be responsible for the loss, destruction or deterioration of any goods with respect to the description of which an account materially false has been delivered under sub-section (1) of section 58 if the loss, destruction or deterioration is in any way brought about by the false account, nor in any case for an amount exceeding the value of the goods if

<sup>1</sup> Cf. the Carriers Act, 1830 (11 Geo. 4 & 1 Will. 4, c. 69), s. 1.

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such value were calculated in accordance with the description contained in the false account.

79. Where an officer, soldier or follower, while being or travelling as such on duty upon a railway belonging to, and worked by, the Government, loses his life or receives any personal injury in such circumstances that, if he were not an officer, soldier or follower being or travelling as such on duty upon the railway, compensation would be payable under Act <sup>1</sup> No. XIII of 1855 or to him, as the case may be, the form and amount of the compensation to be made in respect of the loss of his life or his injury shall, where there is any provision in this behalf in the military regulations to which he was immediately before his death, or is, subject, be determined in accordance with those regulations and not otherwise.

Settlement of compensation for injuries to officers, soldiers and followers on duty.

80. Notwithstanding anything in any agreement purporting to limit the liability of a railway administration with respect to traffic while on the railway of another administration, a suit for compensation for loss of the life of, or personal injury to, a passenger, or for loss, destruction or deterioration of animals or goods where the passenger was or the animals or goods were booked through over the railways of two or more railway administrations, may be brought either against the railway administration from which the passenger obtained his pass or purchased his ticket, or to which the animals or goods were delivered by the consignor thereof, as the case may be, or against the railway administration on whose railway the loss, injury, destruction or deterioration occurred.

Suits for compensation for injury to through-booked traffic.

81. [*Limitation of liability of railway administration in respect of traffic on inland waters by vessel not being part of railway.*] Rep. by the *Indian Railways Act (1890) Amendment Act, 1896 (IX of 1896), section 5.*

82.<sup>2</sup> (1) When a railway administration contracts to carry passengers, animals or goods partly by railway and partly by sea, a condition exempting the railway administration from responsibility for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea from the act of God, the King's enemies, fire, accidents from machinery, boilers and steam and all and every other dangers and accidents of the seas, rivers and navigation of whatever nature and kind soever shall, without being expressed, be deemed to be part of the contract, and, subject to that condition, the railway administration shall, irrespective of the nationality

Limitation of liability of railway administration in respect of accidents at sea.

<sup>1</sup> The Indian Fatal Accidents Act, 1855, Genl. Acts, Vol. I.

<sup>2</sup> Cf. the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), s. 14, and the Regulation of Railways Act, 1871 (34 & 35 Vict., c. 78), s. 12.



## (Chap. VIII.—Accidents.)

or ownership of the ship used for the carriage by sea, be responsible for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea, to the extent to which it would be responsible under the <sup>1</sup>Merchant Shipping Act, 1854, and the <sup>2</sup> Merchant Shipping Act Amendment Act, 1862,<sup>1</sup> if the ship were registered under the former of those Acts and the railway administration were owner of the ship, and not to any greater extent.

17 & 18  
Vict., c. 104  
25 & 26  
Vict., c. 63.

(2) The burden of proving that any such loss, injury or damage as is mentioned in sub-section (1) happened during the carriage by sea shall lie on the railway administration.

## CHAPTER VIII.

## ACCIDENTS.

Report of  
railway  
accidents.

83.<sup>3</sup> When any of the following accidents occur in the course of working a railway, namely :—

(a) any accident attended with loss of human life, or with grievous hurt as defined in the <sup>3</sup> Indian Penal Code, or with serious injury to property ;

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(b) any collision between trains of which one is a train carrying passengers ;

(c) the derailment of any train carrying passengers or of any part of such a train ;

(d) any accident of a description usually attended with loss of human life or with such grievous hurt as aforesaid or with serious injury to property ;

(e) any accident of any other description which the Governor General in Council may notify in this behalf in the Gazette of India ;

the railway administration working the railway and, if the accident happens to a train belonging to any other railway administration, the other railway administration also shall, without unnecessary delay, send <sup>4</sup> notice of the accident to the Local Government and to the Inspector appointed <sup>5</sup> for the railway ; and the station-master nearest to the place at which the accident occurred or, where there is no station-master, the railway servant in charge of

<sup>1</sup> See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60).

<sup>2</sup> Cf. the Regulation of Railways Act, 1871 (34 & 35 Vict., c. 78), s. 6.

<sup>3</sup> Genl. Acts, Vol. I.

<sup>4</sup> For such notice, see Supplement to Assam R. M. ; for report of accidents on E. I. and I. M. Rys. in Central Provinces, see Genl. Provs. Local R. & O.

<sup>5</sup> For notification appointing the Comsr. of Police, Madras, to receive reports of all railway accidents happening within the limits of the town of Madras, see Mad. R. & O., Vol. I.

(Chap. VIII.—Accidents. Chap. IX.—Penalties and Offences.)

the section of the railway on which the accident occurred shall, without unnecessary delay, give notice of the accident to the Magistrate of the district in which the accident occurred, and to the officer in charge of the police-station within the local limits of which it occurred, or to such other Magistrate and police-officer as the Governor General in Council appoints in this behalf.

84. The Governor-General in Council may <sup>1</sup> make rules consistent with this Act and any other enactment for the time being in force for all or any of the following purposes, namely :—

Power to make rules regarding notices of and inquiries into accidents.

- (a) for prescribing the forms of the notices mentioned in the last foregoing section, and the particulars of the accident which those notices are to contain ;
- (b) for prescribing the class of accidents of which notice is to be sent by telegraph immediately after the accident has occurred ;
- (c) for prescribing the duties of railway servants, police-officers, Inspectors and Magistrates on the occurrence of an accident.

85. Every railway administration shall send to the Governor General in Council a return of accidents occurring upon its railway, whether attended with personal injury or not, in such <sup>1</sup> form and manner and at such intervals of time as the Governor General in Council directs.

Submission of return of accidents.

86.<sup>2</sup> Whenever any person injured by an accident on a railway claims compensation on account of the injury, any Court or person having by law or consent of parties authority to determine the claim may order that the person injured be examined by some duly qualified medical practitioner named in the order and not being a witness on either side, and may make such order with respect to the cost of the examination as it or he thinks fit.

Provision for compulsory medical examination of person injured in railway accident.

## CHAPTER IX.

### PENALTIES AND OFFENCES.

#### *Forfeitures by Railway Companies.*

87. If a railway company fails to comply with any requisition made under section 13, it shall forfeit to the Government the sum of two hundred rupees for the default and a further sum of fifty rupees for every day after the first during which the default continues.

Penalty for default in compliance with requisition under section 13.

<sup>1</sup> For rules under the section and s. 85 as to notices of accidents occurring in the course of working a railway, see Genl. Stat. R. & O., Vol. III.

<sup>2</sup> Cf. the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), s. 26.

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Penalty for contravention of section 16, 18, 19, 20, 21 or 24.

88. If a railway company moves any rolling-stock upon a railway by steam or other motive power in contravention of section 16, sub-section (2), or opens or uses any railway or work in contravention of section 18, section 19, section 20 or section 21, or re-opens any railway or uses any rolling-stock in contravention of section 24, it shall forfeit to the Government the sum of two hundred rupees for every day during which the motive power, railway, work or rolling-stock is used in contravention of any of these sections.

Penalty for not having certain documents kept or exhibited at stations under section 47, 54 or 65.

89. If a railway company fails to comply with the provisions of section 47, sub-section (6), section 54, sub-section (2), or section 65, with respect to the books or other documents to be kept open to inspection or conspicuously posted at stations on its railway, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues.

Penalty for not making rules as required by section 47.

90. If the railway company fails to comply with the provisions of section 47 with respect to the making of general rules, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues.

Penalty for failure to comply with decision under section 48

91.<sup>1</sup> If a railway company refuses or neglects to comply with any decision of the Governor General in Council under section 48, it shall forfeit to the Government the sum of two hundred rupees for every day during which the refusal or neglect continues.

Penalty for delay in submitting returns under section 52 or 85.

92. If a railway company fails to comply with the provisions of section 52 or section 85 with respect to the submission of any return, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues after the fourteenth day from the date prescribed for the submission of the return.

Penalty for neglect of provisions of section 53 or 63 with respect to carrying capacity of rolling-stock.

93. If a railway company contravenes the provisions of section 53 or section 63, with respect to the maximum load to be carried in any wagon or truck, or the maximum number of passengers to be carried in any compartment, or the exhibition of such load on the wagon or truck or of such number in or on the compartment, or knowingly suffers any person owning a wagon or truck passing over its railway to contravene the provisions of the former of those sections, it shall forfeit to the Government the sum of twenty rupees for every day during which either section is contravened.

Penalty for failure to comply with requisition under section 62 for maintenance of means of communication between

94.<sup>2</sup> If a railway company fails to comply with any requisition of the Governor General in Council under section 62 for the provision and maintenance in proper order, in any train worked by it, which carries passengers, of such efficient means of communication as the Governor General in Council

<sup>1</sup> Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 11.

Cf. the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), s. 22.

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has approved, it shall forfeit to the Government the sum of twenty rupees for each train run in disregard of the requisition.

95. If a railway company fails to comply with the requirements of section 64 with respect to the reservation of compartments for females or the provision of closets therein, it shall forfeit to the Government the sum of twenty rupees for every train in respect of which the default occurs.

96. If a railway company omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, it shall forfeit to the Government the sum of one hundred rupees for every day during which the omission continues.

97. (1) When a railway company has through any act or omission forfeited any sum to the Government under the foregoing provisions of this Chapter, the sum shall be recoverable by suit in the District Court having jurisdiction in the place where the act or omission or any part thereof occurred.

(2) The suit must be instituted with the previous sanction of the Governor General in Council, and the plaintiff therein shall be the Secretary of State for India in Council.

(3) The Governor General in Council may remit the whole or any part of any sum forfeited by a railway company to the Government under the foregoing provisions of this Chapter.

98. Nothing in those provisions shall be construed to preclude the Government from resorting to any other mode of proceedings instead of, or in addition to, such a suit as is mentioned in the last foregoing section, for the purpose of compelling a railway company to discharge any obligation imposed upon it by this Act.

*Offences by Railway Servants.*

99.<sup>1</sup> If a railway servant whose duty it is to comply with the provisions of section 60 negligently or wilfully omits to comply therewith, he shall be punished with fine which may extend to twenty rupees.

100. If a railway servant is in a state of intoxication while on duty, he shall be punished with fine which may extend to fifty rupees, or, where the improper performance of the duty would be likely to endanger the safety of any person travelling or being upon a railway, with imprisonment for a term which may extend to one year, or with fine or with both.

passengers and railway servants.

Penalty for failure to reserve compartments for females under section 64.

Penalty for omitting to give the notices of accidents required by section 83 and under section 84.

Recovery of penalties.

Alternative or supplementary character of remedies afforded by the foregoing provisions of this Chapter.

Breach of duty imposed by section 60.

Drunkenness.

<sup>1</sup> Cf. the Railway Regulation Act, 1842 5 & 6 Vict., c. 55), s. 17.

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Endanger-  
ing the  
safety of  
persons.

101.<sup>1</sup> If a railway servant, when on duty, endangers the safety of any person—

- (a) by disobeying any general rule made, sanctioned, published and notified under this Act, or
- (b) by disobeying any rule or order which is not inconsistent with any such general rule, and which such servant was bound by the terms of his employment to obey, and of which he had notice, or
- (c) by any rash or negligent act or omission,

he shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to five hundred rupees, or with both.

Compelling  
passengers  
to enter car-  
riages  
already full.

102. If a railway servant compels or attempts to compel, or causes, any passenger to enter a compartment which already contains the maximum number of passengers exhibited therein or thereon under section 63, he shall be punished with fine which may extend to twenty rupees.

Omission to  
give notice of  
accident.

103. If a station-master or a railway servant in charge of a section of a railway omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, he shall be punished with fine which may extend to fifty rupees.

Obstructing  
level-cross-  
ings.

104.<sup>2</sup> If a railway servant unnecessarily—

- (a) allows any rolling-stock to stand across a place where the railway crosses a public road on the level, or
- (b) keeps a level-crossing closed against the public,

he shall be punished with fine which may extend to twenty rupees.

False  
returns.

105.<sup>3</sup> If any return which is required by this Act is false in any particular to the knowledge of any person who signs it, that person shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to one year, or with both.

*Other Offences.*

Giving false  
account of  
goods.

106.<sup>4</sup> If a person requested under section 58 to give an account with respect to any goods gives an account which is materially false, he and, if he is

<sup>1</sup> Cf. the Railway Regulation Act, 1840 (3 & 4 Vict., c. 97), ss. 13 and 14, and the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 17.

For rules made by the Government of Bengal under s. 46 (2) of the Police Act, 1861 (5 of 1861), for the guidance of the Railway Police as to arrest and prosecution for offences under this section, see Calcutta Gazette, 1904, Pt. I, p. 584.

<sup>2</sup> Cf. the Railway Clauses Act, 1863 (26 & 27 Vict., c. 92), s. 5.

<sup>3</sup> Cf. the Regulation of Railways Act, 1871 (34 & 35 Vict., c. 78), s. 10.

<sup>4</sup> Cf. The Railway Clauses Act, 1845 (8 & 9 Vict., c. 20), ss. 99 and 152, respectively.

## (Chap. IX.—Penalties and Offences.)

not the owner of the goods, the owner also shall be punished with fine which may extend to ten rupees for every maund or part of a maund of the goods, and the fine shall be in addition to any rate or other charge to which the goods may be liable.

107.<sup>1</sup> If in contravention of section 59 a person takes with him any dangerous or offensive goods upon a railway, or tenders or delivers any such goods for carriage upon a railway, he shall be punished with fine which may extend to five hundred rupees, and shall also be responsible for any loss, injury or damage which may be caused by reason of such goods having been so brought upon the railway.

Unlawfully bringing dangerous or offensive goods upon a railway.

108.<sup>2</sup> If a passenger, without reasonable and sufficient cause, makes use of or interferes with any means provided by a railway administration for communication between passengers and the railway servants in charge of a train, he shall be punished with fine which may extend to fifty rupees.

Needlessly interfering with means of communication between passengers and railway servants.

109. (1) If a passenger, having entered a compartment which is reserved by a railway administration for the use of another passenger, or which already contains the maximum number of passengers exhibited therein or thereon under section 63, refuses to leave it when required to do so by any railway servant, he shall be punished with fine which may extend to twenty rupees.

Entering compartment reserved or already full or resisting entry into a compartment not full.

(2) If a passenger resists the lawful entry of another passenger into a compartment not reserved by the railway administration for the use of the passenger resisting or not already containing the maximum number of passengers exhibited therein or thereon under section 63, he shall be punished with fine which may extend to twenty rupees.

110. (1) If a person, without the consent of his fellow-passengers, if any, in the same compartment smokes in any compartment except a compartment specially provided for the purpose, he shall be punished with fine which may extend to twenty rupees.

Smoking.

(2) If any person persists in so smoking after being warned by any railway servant to desist, he may, in addition to incurring the liability mentioned in sub-section (1), be removed by any railway servant from the carriage in which he is travelling.

111.<sup>3</sup> If a person, without authority in this behalf, pulls down or wilfully injures any board or document set up or posted by order of a railway administration on a railway or any rolling-stock, or obliterates or alters any of the

Defacing public notices.

<sup>1</sup> Cf. the Railway Clauses Act, 1845 (8 & 9 Vict., c. 20), ss. 99 and 152, respectively.

<sup>2</sup> Cf. the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), s. 22.

<sup>3</sup> Cf. the Companies Clauses Act, 1845 (8 & 9 Vict., c. 16), s. 146.

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letters or figures upon any such board or document, he shall be punished with fine which may extend to fifty rupees.

Fraudulently travelling or attempting to travel without proper pass or ticket.

112. If a person, with intent to defraud a railway administration,—

- (a) enters in contravention of section 68 any carriage on a railway, or
- (b) uses or attempts to use a single pass or single ticket which has already been used on a previous journey or, in the case of a return ticket a half thereof which has already been so used,

he shall be punished with fine which may extend to one hundred rupees in addition to the amount of the single fare for any distance which he may have travelled.

travelling without pass or ticket or with insufficient pass or ticket or beyond authorized distance.

113.<sup>1</sup> (1) If a passenger travels in a train without having a proper pass or a proper ticket with him or being in or having alighted from a train, fails or refuses to present for examination or to deliver up his pass or ticket immediately on requisition being made therefor under section 69, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the excess charge hereinafter in this section mentioned, in addition to the ordinary single fare for the distance which he has travelled or, where there is any doubt as to the station from which he started the ordinary single fare from the station from which the train originally started, or if the tickets or passengers travelling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were examined or, in case of their having been examined more than once, were last examined.

(2) If a passenger travels or attempts to travel in or on a carriage, or by a train, of a higher class than that for which he has obtained a pass or purchased a ticket, or travels in or on a carriage beyond the place authorized by his pass or ticket, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the excess charge hereinafter in this section mentioned, in addition to any difference between any fare paid by him and the fare payable in respect of such journey as he has made.

(3) The excess charge referred to in sub-section (1) and sub-section (2) shall,—

- (a) where the passenger has immediately after incurring the charge and before being detected by a railway servant notified to the railway servant on duty with the train the fact of the charge having been incurred, be one rupee, two annas or eight annas, and

<sup>1</sup> Cf. the French and German Railway law.

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(b) in any other case, be six rupees, one rupee or three rupees, according as the passenger is travelling or has travelled or has attempted to travel in a carriage of the highest class or in a carriage of the lowest class or in a carriage of any other class or kind :—

Provided that such excess charge shall in no case exceed,—

(a) where the liability to pay it arises under sub-section (1), the amount of the ordinary single fare which the passenger incurring the charge is liable to pay under that sub-section, or

(b) where such liability arises under sub-section (2), the amount of the difference between the fare paid by the passenger incurring the charge and the fare payable in respect of such journey as he has made.

(4) If a passenger liable to pay the excess charge and fare mentioned in sub-section (1), or the excess charge and any difference of fare mentioned in sub-section (2), fails or refuses to pay the same on demand being made therefor under one or other of those sub-sections, as the case may be, the sum payable by him shall, on application made to any Magistrate by any railway servant appointed by the railway administration in this behalf, be recovered by the Magistrate from the passenger as if it were a <sup>1</sup> fine imposed on the passenger by the Magistrate and shall, as it is recovered, be paid to the railway administration.

114. If a person sells or attempts to sell, or parts or attempts to part with the possession of <sup>2</sup>[any half] of a return ticket in order to enable any other person to travel therewith, or purchase such half of a return ticket, he shall be punished with fine which may extend to fifty rupees, and, if the purchaser of such half of a return ticket travels or attempts to travel therewith, he shall be punished with an additional fine which may extend to the amount of the single fare for <sup>3</sup>[the journey] authorized by the ticket.

Transferring  
any half  
of return  
ticket.

115. That portion of any fine imposed under section 112 or the last foregoing section which represents the single fare therein mentioned shall, as the fine is recovered, be paid to the railway administration before any portion of the fine is credited to the Government.

Disposal of  
fines under  
the two last  
foregoing  
sections.

116. If a passenger wilfully alters or defaces his pass or ticket so as to

Altering or  
defacing pass  
or ticket.

<sup>1</sup> As to procedure for recovery of fines, see ss. 386 to 389 of the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

<sup>2</sup> The words "any half" were substituted for the words "the return half" by s. 6 of the Indian Railways Act (1890) Amendment Act, 1896 (9 of 1896), *infra*.

<sup>3</sup> The words "the journey," were substituted for the words "the return journey" by s. 6 of the Indian Railways Act (1890) Amendment Act, 1896 (9 of 1896), *infra*.



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render the date, number or any material portion thereof illegible, he shall be punished with fine which may extend to fifty rupees.

Being or suffering person to travel on railway with infectious or contagious disorder.

117. (1) If a person suffering from an infectious or contagious disorder enters or travels upon a railway in contravention of section 71, sub-section (2), he, and any person having charge of him upon the railway when he so entered or travelled thereon, shall be punished with fine which may extend to twenty rupees, in addition to the forfeiture of any fare which either of them may have paid, and of any pass or ticket which either of them may have obtained or purchased, and may be removed from the railway by any railway servant.

(2) If any such railway servant as is referred to in section 71, sub-section (2), knowing that a person is suffering from any infectious or contagious disorder, wilfully permits the person to travel upon a railway without arranging for his separation from other passengers, he shall be punished with fine which may extend to one hundred rupees.

Entering carriage in motion, or otherwise improperly travelling on a railway.

118. (1) If a passenger enters or leaves, or attempts to enter or leave, any carriage while the train is in motion, or elsewhere than at the side of the carriage adjoining the platform or other place appointed by the railway administration for passengers to enter or leave the carriage, or opens the side-door of any carriage while the train is in motion, he shall be punished with fine which may extend to twenty rupees.

(2) If a passenger, after being warned by a railway servant to desist, persists in travelling on the roof, steps or footboard of any carriage or on an engine, or in any other part of a train not intended for the use of passengers, he shall be punished with fine which may extend to fifty rupees and may be removed from the railway by any railway servant.

Entering carriage or other place reserved for females.

119. If a male person, knowing a carriage, compartment, room or other place to be reserved by a railway administration for the exclusive use of females, enters the place without lawful excuse, or, having entered it, remains therein after having been desired by any railway servant to leave it, he shall be punished with fine which may extend to one hundred rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant.

Drunkenness or nuisance on a railway.

120. If a person in any railway carriage or upon any part of a railway—

(a) is in a state of intoxication, or

(b) commits any nuisance or act of indecency, or uses obscene or abusive language, or

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(c) wilfully and without lawful excuse interferes with the comfort of any passenger or extinguishes any lamp,

he shall be punished with fine which may extend to fifty rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant.

121.<sup>1</sup> If a person wilfully obstructs or impedes any railway servant in the discharge of his duty, he shall be punished with fine which may extend to one hundred rupees

Obstructing railway servant in his duty.

122.<sup>1</sup> (1) If a person unlawfully enters upon a railway, he shall be punished with fine which may extend to twenty rupees.

Trespass and refusal to desist from trespass.

(2) If a person so entering refuses to leave the railway on being requested to do so by any railway servant, or by any other person on behalf of the railway administration, he shall be punished with fine which may extend to fifty rupees, and may be removed from the railway by such servant or other person.

123. If a driver or conductor of a tramcar, omnibus, carriage or other vehicle while upon the premises of a railway disobeys the reasonable directions of any railway servant or police-officer, he shall be punished with fine which may extend to twenty rupees

Disobedience of omnibus drivers to directions of railway servants.

124.<sup>2</sup> In either of the following cases, namely :—

(a) if a person knowing or having reason to believe that an engine or train is approaching along a railway, opens any gate set up on either side of the railway across a road, or passes or attempts to pass, or drives or takes or attempts to drive or take, any animal, vehicle or other thing across the railway,

Opening or not properly shutting gates.

(b) if, in the absence of a gate-keeper, a person omits to shut and fasten such a gate as aforesaid as soon as he and any animal, vehicle or other thing under his charge have passed through the gate,

the person shall be punished with fine which may extend to fifty rupees.

125. (1) The owner or person in charge of any cattle straying on a railway provided with fences suitable for the exclusion of cattle shall be punished with fine which may extend to five rupees for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the <sup>3</sup> Cattle-trespass Act, 1871.

Cattle-trespass.

<sup>1</sup> Cf. the Railway Regulation Act, 1840 (3 & 4 Vict., c. 97), s. 16.

<sup>2</sup> Cf. the Railway Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 75.

<sup>3</sup> Genl. Acts, Vol. II.

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(2) If any cattle are wilfully driven, or knowingly permitted to be, on any railway otherwise than for the purpose of lawfully crossing the railway or for any other lawful purpose, the person in charge of the cattle or, at the option of the railway administration, the owner of the cattle shall be punished with fine which may extend to ten rupees for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the <sup>1</sup>Cattle-trespass Act, 1871.

I of 1871.

(3) Any fine imposed under this section may, if the Court so directs, be recovered in manner provided by section 25 of <sup>1</sup> the Cattle-trespass Act, 1871.

I of 1871.

(4) The expression "public road" in sections 11 and 26 of the <sup>1</sup>Cattle-trespass Act, 1871, shall be deemed to include a railway, and any railway servant may exercise the powers conferred on officers of police by the former of those sections.

I of 1871.

(5) The word "cattle" has the same meaning in this section as in the <sup>1</sup>Cattle-trespass Act, 1871.

I of 1871.

Maliciously  
wrecking or  
attempting  
to wreck a  
train.

126.<sup>2</sup> If a person unlawfully—

- (a) puts or throws upon or across any railway any wood, stone or other matter or thing, or
- (b) takes up, removes, loosens or displaces any rail, sleeper or other matter or thing belonging to any railway, or
- (c) turns, moves, unlocks or diverts any points or other machinery belonging to any railway, or
- (d) makes or shows, or hides or removes, any signal or light upon or near to any railway, or
- (e) does or causes to be done or attempts to do any other act or thing in relation to any railway,

with intent, or with knowledge that he is likely, to endanger the safety of any person travelling or being upon the railway, he shall be punished with transportation for life or with imprisonment for a term which may extend to ten years.

Maliciously  
hurting or  
attempting to  
hurt persons  
travelling  
by railway.

127.<sup>3</sup> If a person unlawfully throws or causes to fall or strike at, against, into or upon any rolling-stock forming part of a train any wood, stone or other matter or thing with intent, or with knowledge that he is likely, to endanger the safety of any person being in or upon such rolling-stock or in or

<sup>1</sup> Genl. Acts, Vol. II.

<sup>2</sup> Cf. the Malicious Damage Act, 1861 (24 & 25 Vict., c. 97), s. 35, and the Offences against the Person Act, 1861 (24 & 25 Vict., c. 100), s. 32.

<sup>3</sup> Cf. the Offences against the Person Act, 1861 (24 & 25 Vict., c. 100), s. 33.

*(Chap. IX.—Penalties and Offences.)*

upon any [other rolling-stock forming part of the same train, he shall be punished with transportation for life or with imprisonment for a term which may extend to ten years.

128.<sup>1</sup> If a person, by any unlawful act or by any wilful omission or neglect, endangers or causes to be endangered the safety of any person travelling or being upon any railway, or obstructs or causes to be obstructed or attempts to obstruct any rolling-stock upon any railway, he shall be punished with imprisonment for a term which may extend to two years.

Endangering safety of persons travelling by railway by wilful act to omission

129. If a person rashly or negligently does any act, or omits to do what he is legally bound to do, and the act or omission is likely to endanger the safety of any person travelling or being upon a railway, he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

Endangering safety of persons travelling by railway by rash or negligent act or omission.

130. (1) If a minor under the age of twelve years is with respect to any railway guilty of any of the acts or omissions mentioned or referred to in any of the four last foregoing sections, he shall be deemed, notwithstanding anything in <sup>2</sup> section 82 or section 83 of the Indian Penal Code, to have committed an offence, and the Court convicting him may, if it thinks fit, direct that the minor, if a male, shall be punished with whipping, or may require the father or guardian of the minor to execute, within such time as the Court may fix, a bond binding himself in such penalty as the Court directs to prevent the minor from being again guilty of any of those acts or omissions.

Special provision with respect to the commission by children of acts endangering safety of persons travelling by railway.

(2) The amount of the bond, if forfeited shall be recoverable by the Court as if it were a <sup>3</sup> fine imposed by itself.

(3) If a father or guardian fails to execute a bond under sub-section (1) within the time fixed by the Court, he shall be punished with fine which may extend to fifty rupees.

*Procedure.*

131. (1) If a person commits any offence mentioned in section 100, 101, 119, 120, 121, 126, 127, 128 or 129 or in section 130, sub-section (1), he may be arrested without warrant or other written authority by any railway servant or police-officer, or by any other person whom such servant or officer may call to his aid.

Arrest for offences against certain sections.

(2) A person so arrested shall, with the least possible delay, be taken before a Magistrate having authority to try him or commit him for trial.

<sup>1</sup> Cf. the Offences against the Person Act, 1861 (24 & 25 Vict., c. 100), s. 34, and the Malicious Damage Act, 1861 (24 & 25 Vict., c. 97), s. 36.

<sup>2</sup> Genl. Acts, Vol. I.

<sup>3</sup> See ss. 386 to 389 of the Code of Criminal Procedure, 1893, (Act 5 of 1898), Genl. Acts, Vol. V.

## (Chap. IX.—Penalties and Offences.)

Arrest of  
persons likely  
to abscond or  
unknown.

**132.**<sup>1</sup> (1) If a person commits any offence under this Act, other than an offence mentioned in the last foregoing section, or fails or refuses to pay any excess charge or other sum demanded under section 113, and there is reason to believe that he will abscond or his name and address are unknown, and he refuses on demand to give his name and address or there is reason to believe that the name or address given by him is incorrect, any railway servant or police-officer or any other person whom such railway servant or police-officer may call to his aid, may, without warrant or other written authority, arrest him.

(2) The person arrested shall be released on his giving bail or, if his true name and address are ascertained on his executing a bond without sureties for his appearance before a Magistrate when required.

(3) If the person cannot give bail and his true name and address are not ascertained, he shall with the least possible delay be taken before the nearest Magistrate having jurisdiction.

(4) The provisions of Chapters XXXIX and XLII of the <sup>2</sup>Code of Criminal Procedure, 1882, shall, so far as may be, apply to bail given and bonds executed under this section.

Magistrate,  
having juris-  
diction under  
Act.

**133.** No Magistrate other than a Presidency Magistrate or than a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

Place of  
trial.

**134.** (1) Any person committing any offence against this Act or any rule thereunder shall be triable for such offence in any place in which he may be or which the <sup>3</sup> local Government may notify in this behalf, as well as in any other place in which he might be tried under any law for the time being in force.

(2) Every notification under sub-section (1) shall be published in the local official Gazette, and a copy thereof shall be exhibited for the information of the public in some conspicuous place at each of such railway stations as the Local Government may direct.

<sup>1</sup> *Cf.* the Companies Clauses Act, 1845 (8 & 9 Vict., c. 16), s. 156.

<sup>2</sup> See now the Code of Criminal Procedure, 1893 (Act 5 of 1898), Genl. Acts, Vol. V.

<sup>3</sup> For instances of notifications issued under this power, see supplt. to Assam R. M., Assam Gazette, 1898, Pt. II, p. 134, and *ibid*, 1901, Pt. II, p. 482; Gazette of India, 1899, Pt. I, p. 255; Ben. Stat. R. and O., Vol. I, and Cal. Gazette, 1907, p. 202; and U. P. List of Local R. and O., Vol. I and U. P. Gazette, 1906, Pt. I, p. 983.

## CHAPTER X.

## SUPPLEMENTAL PROVISIONS.

135. Notwithstanding anything to the contrary in any enactment or in any agreement or award based on any enactment the following rules shall regulate the levy of taxes in respect of railways and from railway administrations in aid of the funds of local authorities, namely :—

Taxation of  
railways by  
local author-  
ities.

(1) A railway administration shall not be liable to pay any tax in aid of the funds of any <sup>1</sup>local authority unless the Governor General in Council has, by notification in the official Gazette, declared the railway administration to be liable to pay the tax.<sup>2</sup>

(2) While a notification of the Governor General in Council under clause (1) of this section is in force the railway administration shall be liable to pay to the local authority either the tax mentioned in the notification or in lieu thereof, such sum, if any, as an officer <sup>3</sup>appointed in this behalf by the Governor General in Council may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable.

(3) The Governor General in Council may at any time revoke or vary a notification under clause (1) of this section.

(4) Nothing in this section is to be construed as debarring any railway administration from entering into a contract with any local authority for the supply of water or light, or for the scavenging of railway premises, or for any other service which the local authority may be rendering or be prepared to render within any part of the local area under its control.

(5) "Local authority" in this section means a local authority as defined in the <sup>4</sup>General Clauses Act, 1887, and includes any authority legally entitled to or entrusted with the control or management of any fund for the maintenance of watchmen or for the conservancy of a river.

I of 1897.

<sup>1</sup> For definition of "local authority," see sub-section (5), *infra*, and the General Clauses Act, 1897 (10 of 1897), s. 3 (28), *infra*.

<sup>2</sup> (1) For notification under this section declaring every railway administration to be liable to pay every tax which it is lawfully required to pay by or on behalf of any local authority in aid of the funds of such authority, see Gazette of India, 1907, Pt. I, p. 1075.

(2) For notification imposing water-rates on the East Indian Railway in respect of certain Municipalities, see Gazette of India, 1893, and 1894, Pt. I, pp. 358 and 438, respectively.

(3) For notifications declaring that certain Railway Companies shall pay certain taxes to certain Municipalities, see Mad. R. and O., Vol. I.

(4) For notification declaring that the administration of the Burma Railways shall be liable to tax in respect of its property within the Rangoon Municipality, see Gazette of India, 1906, Pt. I, p. 811.

<sup>3</sup> For such appointment, see Genl. Stat. R. and O., Vol. III.

<sup>4</sup> See now the General Clauses Act, 1897 (10 of 1897), s. 3 (28), *infra*.

## (Chap. X.—Supplemental Provisions.)

Restriction  
on execution  
against rail-  
way pro-  
perty.

136.<sup>1</sup> (1) None of the rolling-stock, machinery, plant, tools, fittings, materials or effects used or provided by a railway administration for the purpose of the traffic on its railway, or of its stations or work-shops, shall be liable to be taken in execution of any decree or order of any Court <sup>2</sup>[or of any local authority or person having by law power to attach or distrain property or otherwise to cause property to be taken in execution] without the previous sanction of the Governor General in Council.

(2) Nothing in sub-section (1) is to be construed as affecting the authority of any Court to attach the earnings of a railway in execution of a decree or order.

Railway ser-  
vants to be  
public ser-  
vants for the  
purposes of  
Chapter IX  
of the Indian  
Penal Code.

137. (1) Every railway servant shall be deemed to be a public servant for the purposes of Chapter IX of the <sup>3</sup>Indian Penal Code.

XLV of  
1860.

(2) In the definition of "legal remuneration" in section 161 of that Code, the word "Government" shall, for the purposes of sub-section (1), be deemed to include any employer of a railway servant as such.

(3) A railway servant shall not—

- (a) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property put up to auction under section 55 or section 56, or,
- (b) in contravention of any direction of the railway administration in this behalf, engage in trade.

(4) Notwithstanding anything in section 21 of the <sup>3</sup>Indian Penal Code, XLV of a railway servant shall not be deemed to be a public servant for any of 1860. the purposes of that Code except those mentioned in sub-section (1).

Procedure  
for summary  
delivery to  
railway ad-  
ministration  
of property  
detained by  
railway  
servant.

138.<sup>4</sup> If a railway servant is discharged or suspended from his office, or dies, absconds or absents himself, and he or his wife or widow, or any of his family or representatives, refuses or neglects, after notice in writing for that purpose, to deliver up to the railway administration, or to a person appointed by the railway administration in this behalf, any station dwelling-house, office or other building with its appurtenances, or any books, papers or other matters, belonging to the railway administration and in the possession or custody of such railway servant at the occurrence of any such event as aforesaid, any Magistrate of the first class may, on application

<sup>1</sup> Cf. the Railway Companies Act, 1867 (30 & 31 Vict., c. 127), s. 4.

<sup>2</sup> These words were added by the Indian Railways Act (1890) Amendment Act, 1896 (9 of 1896), s. 7, *infra*.

<sup>3</sup> Genl. Acts, Vol. I.

<sup>4</sup> Cf. the Railway Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 106.

*(Chap. X.—Supplemental Provisions.)*

made by or on behalf of the railway administration, order any police-officer, with proper assistance, to enter upon the building and remove any person found therein and take possession thereof, or to take possession of the books, papers or other matters, and to deliver the same to the railway administration or a person appointed by the railway administration in that behalf.

139.<sup>1</sup> Any notice, determination, direction, requisition, appointment, expression of opinion, approval or sanction to be given or signified on the part of the Governor General in Council, for any of the purposes of, or in relation to, this Act, or any of the powers or provisions therein contained, shall be sufficient and binding if in writing signed by a Secretary, Deputy Secretary, Under-Secretary or Assistant Secretary to the Government of India, or by any other officer or servant<sup>2</sup> authorized to act on behalf of the Governor-General in Council in respect of the matters to which the same may relate, and the Governor General in Council shall not in any case be bound in respect of any of the matters aforesaid unless by some writing signed in manner aforesaid.

Mode of signifying communications from the Governor General in Council.

140. Any notice or other document required or authorized by this Act to be served on a railway administration may be served, in the case of a railway administered by the Government or a Native State, on the Manager and, in the case of a railway administered by a railway company, on the Agent in India of the railway company—

Service of notices on railway administrations.

(a) by delivering the notice or other document to the Manager or Agent; or

(b) by leaving it at his office; or

(c) by forwarding it by post in a prepaid letter addressed to the Manager or Agent at his office and registered under Part III of the<sup>3</sup> Indian Post Office Act, 1866.

XIV of 1866.

141.<sup>4</sup> Any notice or other document required or authorized by this Act to be served on any person by a railway administration may be served—

Service of notices by railway administrations.

(a) by delivering it to the person; or

(b) by leaving it at the usual or last known place of abode of the person; or

<sup>1</sup> Cf. the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 53.

<sup>2</sup> For notification authorizing the Secretary to the Railway Board to sign these documents, see Genl. Stat. R. & O., Vol. III.

<sup>3</sup> See now the Indian Post Office Act, 1898 (6 of 1898), Genl. Acts, Vol. V.

<sup>4</sup> Cf. the Companies Act, 1845 (8 & 9 Vict., c. 16), s. 136, and the Railway Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 34.



*(Chap. X.—Supplemental Provisions.)*

(c) by forwarding it by post in a prepaid letter addressed to the person at his usual or last known place of abode and registered under <sup>1</sup> Part III of the Indian Post Office Act, 1866.

XIV of 1866

Presumption  
where notice  
is served by  
post.

**142.** Where a notice or other document is served by post, it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the letter containing the notice or other document was properly addressed and registered.

Provisions  
with respect  
to rules.

**143.** (1) A rule under section 22, section 34 or section 84, or the cancellation, rescission or variation of a rule under any of those sections or under section 47, sub-section (4), shall not take effect until it has been published in the Gazette of India.

(2) Where any rule made under this Act, or the cancellation, rescission or variation of any such rule, is required by this Act to be published in the Gazette of India, it shall, besides being so published, be further notified to persons affected thereby in such manner as the Governor General in Council, by general or special order, directs.

(3) The Governor General in Council may cancel or vary any rule made by him under this Act.

Delegation  
of powers of  
Governor  
General in  
Council.

**144.** (1) The Governor General in Council may, by notification in the Gazette of India, invest, absolutely or subject to conditions, any Local Government with any of the powers or functions of the Governor General in Council under this Act with respect to any railway, and may, by that or a like notification, declare what Local Government shall, for the purposes of the exercise of powers or functions so conferred, be deemed to be the Local Government in respect of the railway.<sup>2</sup>

(2) The provisions of section 139 with respect to proceedings of the Governor General in Council shall, so far as they can be made applicable, apply to proceedings of a Local Government exercising the powers or discharging the functions of the Governor General in Council in pursuance of a notification under sub-section (1).

Representa-  
tion of  
Managers  
and Agents  
of Railways  
in Court.

**145.** (1) The Manager of a railway administered by the Government or a Native State, and the Agent in India of a railway administered by a railway company, may, by instrument in writing, authorize any railway servant or other person to act for or represent him in any proceeding before any Civil, Criminal or other Court.

<sup>1</sup> See now the Indian Post Office Act, 1898 (6 of 1898), Genl. Acts, Vol. V.

<sup>2</sup> For notification delegating certain powers and functions vested in the Governor General in Council to Local Governments, see Genl. Stat. E. & O., Vol. III.

## (Chap. X.—Supplemental Provisions.)

**X of 1882.** (2) A person authorized by a Manager or Agent to conduct prosecutions on behalf of a railway administration shall, notwithstanding anything in section 495 of the <sup>1</sup> Code of Criminal Procedure, 1882, be entitled to conduct such prosecutions without the permission of the Magistrate.

146. The Governor General in Council may, by notification in the Gazette of India, extend this Act or any portion thereof to any tramway worked by steam or other mechanical power.<sup>2</sup>

Power to extend Act to steam-tramways.

147. The Governor General in Council may, by a like notification, exempt any railway from any of the provisions of this Act.<sup>3</sup>

Power to exempt railways from Act. Matters supplemental to the definitions of "railway" and "railway-servant."

148. (1) For the purposes of section 3, clauses (5), (6) and (7), and sections 4 to 19 (both inclusive), 47 to 52 (both inclusive), 59, 79, 83 to 92 (both inclusive), 96, 97, 98, 100, 101, 103, 104, 107, 111, 122, 124 to 132 (both inclusive), 134 to 138 (both inclusive), 140, 141, 144, 145 and 147, the word "railway," whether it occurs alone or as a prefix to another word, has reference to a railway or portion of a railway under construction and to a railway or portion of a railway not used for the public carriage of passengers, animals or goods as well as to a railway falling within the definition of that word in section 3, clause (4).

(2) For the purposes of sections 5, 21, 83, 100, 101, 103, 104, 121, 122, 125 and 137, sub-sections (1), (2), and (4), and section 138, the expression "railway servant" includes a person employed upon a railway in connection with the service thereof by a person fulfilling a contract with the railway administration.

**XLV of 1860.** 149. In sections 194 and 195 of the <sup>4</sup> Indian Penal Code, for the words "by this Code or the law of England" the words "by the law of British India or England" shall be substituted.

Amendment of the Indian Penal Code.

**XI of 1887.** 150. For that portion of the preamble to the <sup>5</sup> Sindh-Pishin Railway Act, 1887, which begins with the words "so far as it applies" and ends with the words "in its entirety," the words "should apply in its entirety to that part of the Sindh-Pishin section of the North Western Railway which lies beyond the Province of Sindh" shall be substituted.

Amendment of the Sindh-Pishin Railway Act, 1887.

<sup>1</sup> See now the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

<sup>2</sup> For notifications extending the Act to certain steam tramways, see Gazette of India, 1896, Pt. I, p. 408, and to the Bukhtiarpur-Behar Light Railway, see Gazette of India, 1903, Pt. I, p. 797, and *ibid.*, 1898, Pt. I, p. 467; *ibid.*, 1904, Pt. I, p. 744.

For notification extending the whole Act except section 135 to the Shahdara (Delhi)-Saharanpur Light Railway, see Gazette of India, 1907, Pt. I, p. 569.

For notification extending the whole of the Act except section 135 to the Parlakimedi steam railway, see Mad. R. & O., Vol. I.

<sup>3</sup> For notification exempting the Barsi Light Railway Company from the provisions of s. 85 of the Act, see Gazette of India, 1896, Pt. I, p. 103.

<sup>4</sup> Genl. Acts, Vol. I.

<sup>5</sup> Bal. Code.

(The First Schedule.—Enactments repealed.)

## THE FIRST SCHEDULE.

## ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Title.	Extent of repeal.
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*Acts of the Governor General in Council.*

<sup>1</sup> III of 1865 . .	Carriers Act, 1865 . . . .	Section 7 (so far as it relates to railways) and section 10.
IV of 1879 . .	Indian Railways Act, 1879 . . . .	The whole.
IV of 1883 . .	Indian Railways Act, 1883 . . . .	The whole.
<sup>2</sup> XI of 1886 . .	Indian Tramways Act, 1886 . . . .	Section 49.
3 *	* * * * *	* * *

*Acts of the Lieutenant-Governor of Bengal in Council.*

<sup>4</sup> II of 1882 . .	Bengal Embankment Act, 1882 . .	Section 16, and in section 17 the proviso to the first paragraph of that section, the words "or under the section last preceding" and the words "or railroad" wherever they occur.
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<sup>1</sup> Genl. Acts, Vol. I.<sup>2</sup> Genl. Acts, Vol. III.<sup>3</sup> The entry relating to the Upper Burma Laws Act, 1886 (20 of 1886), was repealed by the Burma Laws Act, 1898 (13 of 1898), see Bur. Code.<sup>4</sup> Ben. Code, Vol.

(*The Second Schedule.—Articles to be declared and insured.*)

## THE SECOND SCHEDULE.

### ARTICLES TO BE DECLARED AND INSURED.

(*See section 75.*)

- (a) gold and silver, coined or uncoined, manufactured or unmanufactured ;
- (b) plated articles ;
- (c) cloths and tissue and lace of which gold or silver forms part, not being the uniform or part of the uniform of an officer, soldier, sailor, police-officer or person enrolled as a volunteer under the <sup>1</sup> Indian Volunteers Act, 1869, or of any public officer, British or foreign, entitled to wear uniform ;
- (d) pearls, precious stones, jewellery and trinkets ;
- (e) watches, clocks and timepieces of any description ;
- (f) Government securities ;
- (g) Government stamps ;
- (h) bills of exchange, hundis, promissory-notes, bank-notes and orders or other securities for payment of money ;
- (i) maps, writing and title-deeds ;
- (j) paintings, engravings, lithographs, photographs, carvings, sculpture and other works of art ;
- (k) art pottery and all articles made of glass, china or marble ;
- (l) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials ;
- (m) shawls ;
- (n) lace and furs ;
- (o) opium ;
- (p) ivory, ebony, coral and sandalwood ;
- (q) musk, sandalwood-oil and other essential oils used in the preparation of *itr* or other perfume ;
- (r) musical and scientific instruments ;
- (s) any article of special value which the Governor General in Council may, by notification in the Gazette of India, add to this schedule. <sup>2</sup>

<sup>1</sup> Genl. Acts, Vol. II.

<sup>2</sup> For articles added to this schedule by notification, *see* Genl. Stat. R. and O., Vol. III.

No. X of 1890.<sup>1</sup>

[21st March, 1890.]

## An Act to amend Act XXV of 1867.

WHEREAS it is expedient to amend Act XXV of 1867<sup>2</sup> (*an Act for the regulation of Printing-presses and Newspapers, for the preservation of copies of books printed in British India, and for the registration of such books*); It is hereby enacted as follows :—

1. [*Repeal of part of preamble to Act XXV of 1867.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

2. [*Repeal of part of section 1, Act XXV, 1867.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

3. In section 6 of the said Act, for the words “other Court within the local limits of whose ordinary original civil jurisdiction” the words “other principal Civil Court of original jurisdiction for the place where” shall be substituted.

4. For Part III (sections 9, 10 and 11) of the said Act the following shall be substituted, namely :—

## “PART III.

## “DELIVERY OF BOOKS.

“9. Printed or lithographed copies of the whole of every book which shall be printed or lithographed in British India after this Act shall come into force, together with all maps, prints or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same, shall, notwithstanding any agreement (if the book be published) between the printer and publisher thereof, be delivered by the printer at such place and to such officer as the Local Government shall, by notification in the official

Amendment  
of section 6,  
Act XXV,  
1867.

Submission  
of new Part  
for Part III,  
Act XXV,  
1867.

Copies of  
books printed  
after com-  
mencement  
of Act to be  
delivered  
gratis to  
Government.

<sup>1</sup> Short title, “The Press and Registration of Books Act (1867) Amendment Act, 1890,” see the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1889, Pt. V, p. 236; for Report of the Select Committee, see *ibid*, 1890, Pt. V, p. 91 and for Proceedings in Council, see *ibid*, 1889, Pt. VI, p. 197; and *ibid*, 1890, Pt. VI, pp. 1 and 58.

This Act has been declared in force in the Santhál Parganas by s. 3 of the Santhál Parganas Settlement Regulation (3 of 1872) as amended by the Santhál Parganas Justice and Laws Regulation, 1899 (3 of 1899), Ben. Code, Vol. I.

This Act is in force in Upper Burma (except the Shan States) as being part of the original Act, 25 of 1867, declared in force there by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

It had been previously extended there under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), Genl. Acts, Vol. II, see Gazette of India, 1892, Pt. I, p. 94.

<sup>2</sup> Genl. Acts, Vol. I.

Gazette, from time to time direct, and free of expense to the Government, as follows, that is to say :—

- (a) in any case, within one calendar month after the day on which any such book shall first be delivered out of the press, one such copy, and,
- (b) if within one calendar year from such day the Local Government shall require the printer to deliver other such copies not exceeding two in number, then within one calendar month after the day on which any such requisition shall be made by the Local Government on the printer, another such copy, or two other such copies, as the Local Government may direct,

the copies so delivered being bound, sewed or stitched together and upon the best paper on which any copies of the book shall be printed or lithographed.

“The publisher or other person employing the printer shall, at a reasonable time before the expiration of the said month, supply him with all maps, prints and engravings finished and coloured as aforesaid, which may be necessary to enable him to comply with the requirements aforesaid.

“Nothing in the former part of this section shall apply to—

- (i) any second or subsequent edition of a book in which edition no additions or alterations either in the letter-press or in the maps, prints or other engravings belonging to the book have been made, and a copy of the first or some preceding edition of which book has been delivered under this Act, or
- (ii) any periodical work published in conformity with the rules laid down in section 5 of this Act.

“10. The officer to whom a copy of a book is delivered under the last foregoing section shall give to the printer a receipt in writing therefor.

Receipt for  
copies  
delivered  
under last  
foregoing  
section.

“11. The copy delivered pursuant to clause (a) of the first paragraph of section 9 of this Act shall be disposed of as the Local Government shall from time to time determine.

Disposal of  
copies  
delivered  
under  
section 9.

“Any copy or copies delivered pursuant to clause (b) of the said paragraph shall be transmitted to the British Museum or the Secretary of State for India, or to the British Museum and the said Secretary of State, as the case may be.”

Substitution  
of new  
sections for  
sections 16  
and 17,  
Act XXV,  
1867.

5. For sections 16 and 17 of the said Act the following shall be substituted, namely :—

Penalty  
for not  
delivering  
books or not  
supplying  
printer with  
maps.

“ 16. If any printer of any such book as is referred to in section 9 of this Act shall neglect to deliver copies of the same pursuant to that section, he shall for every such default forfeit to the Government such sum not exceeding fifty rupees as a Magistrate having jurisdiction in the place where the book was printed may, on the application of the officer to whom the copies should have been delivered or of any person authorised by that officer in this behalf, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the copies which the printer ought to have delivered.

“If any publisher or other person employing any such printer shall neglect to supply him, in the manner prescribed in the second paragraph of section 9 of this Act, with the maps, prints or engravings which may be necessary to enable him to comply with the provisions of that section, such publisher or other person shall for every such default forfeit to the Government such sum not exceeding fifty rupees as such a Magistrate as aforesaid may, on such an application as aforesaid, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the maps, prints or engravings which such publisher or other person ought to have supplied.

Recovery of  
forfeitures  
and disposal  
thereof and  
of fine.

“ 17. Any sum forfeited to the Government under the last foregoing section may be recovered, under the warrant of the Magistrate determining the sum or of his successor in office, in the manner authorised by the <sup>1</sup> Code of Criminal Procedure for the time being in force, and within the period prescribed by the <sup>1</sup> Indian Penal Code, for the levy of a fine. XLV of 1860;  
V of 1898.

“ All fines or forfeitures under this Part of this Act shall, when recovered, be disposed of as the Local Government shall from time to time direct.”

Amendment  
of section 18,  
Act XXV,  
1867.

6. In section 18 of the said Act, there shall be substituted for the words and figure “pursuant to section 9” the words, letter and figure “pursuant to clause (a) of the first paragraph of section 9,” and for the words “copies thereof in manner aforesaid” the words, letter and figure “copy thereof pursuant to clause (a) of the first paragraph of section 9.”

7. [*Repeal of section 22, Act XXV, 1867.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

<sup>1</sup> Genl. Acts, Vols. V & I respectively.

ACT No. XI of 1890.<sup>1</sup>

[21st March, 1890.]

## An Act for the Prevention of Cruelty to Animals.

WHEREAS it is expedient to make further provision for the prevention of cruelty to animals; It is hereby enacted as follows:—

1. (1) This Act may be called the Prevention of Cruelty to Animals Act, 1890. Title, extent, and commencement, and supersession of other enactments.

(2) This section extends to the whole of British India: and the Local Government may, by notification in the official Gazette, extend, on and from a date to be specified in the notification, the <sup>2</sup> whole or any part of the rest of this Act to any such local area as it thinks fit.

(3) When any part of this Act has been extended under sub-section (2) to a local area, the Local Government may, by notification in the official Gazette, direct that the whole or any part of any other enactment in force in the local area for the prevention of cruelty to animals shall, except as regards any thing done or any offence committed or any fine or penalty incurred or any proceedings commenced, cease to have effect in the local area, and such whole or part shall cease to have effect accordingly until the Local Government, by a like notification, otherwise directs.

(4) The Local Government may cancel or vary a notification <sup>3</sup> under sub-section (2) or sub-section (3).

2. In this Act, unless there is something repugnant in the subject or context,— Definitions.

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1890, Pt. V, p. 4; for Report of the Select Committee, *see* *ibid.*, p. 95 and for Proceedings in Council, *see* *ibid.*, Pt. VI, pp. 4, 10 and 62.

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code. [It had previously been extended there under Act 14 of 1874, *see* Gazette of India, 1898, Pt. I, p. 94.]

The Act has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), Genl. Acts, Vol. II, to British Baluchistan, *see* Gazette of India, 1892, Pt. II, p. 367.

It has been declared in force in the Santhal Parganas by s. 3 of the Santhal Parganas Settlement Regulation (8 of 1872), as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (3 of 1899), Ben. Code, Vol. I.

<sup>2</sup> As to extension of the rest of the Act to places in—

(1) Aden, *see* Bombay Government Gazette, 1907, Pt. I, p. 1171;

(2) Ajmer-Merwara, *see* Gazette of India, 1897, Pt. II, p. 771;

(3) Assam, *see* Suppl. to Assam Local R. and O. and E. B. and A. Gazette, 1908, Pt. II, p. 689.

(4) Bengal, including districts now under E. B. and A., *see* Ben. Stat. R. and O., Vol. I; Calcutta Gazette, 1904, Pt. I, p. 1124.

(5) Bombay Presidency, *see* Bom. R. and O., Vol. I.

(6) Burma, *see* Bur. R. M., Vol. I.

(7) Central Provinces, *see* Cen. Provs. R. and O.

(8) Madras, *see* Mad. R. and O., Vol. I.

(9) Punjab, *see* Punj. List of Local R. and O.

(10) United Provinces of Agra and Oudh, *see* U. P. List of Local R. and O., Vol. I.

<sup>3</sup> For orders cancelling such notifications in—

Bengal including districts now under E. B. and A., *see* Ben. Stat. R. and O., Vol. I. Bombay, *see* Bom. R. and O., Vol. I.



(1) "animal" means any domestic or captured animal : and

(2) "street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, to which the public have access.

Penalty for cruelty to animals in public places and for sale in such places of animals killed with unnecessary cruelty.

3. If any person in any street or in any other place, whether open or closed, to which the public have access, or within sight of any person in any street or in any such other place,—

(a) <sup>1</sup> cruelly and unnecessarily beats, overdrives, overloads or otherwise ill-treats any animal, or

(b) <sup>2</sup> binds or carries any animal in such a manner or position as to subject the animal to unnecessary pain or suffering, or

(c) offers, exposes or has in his possession for sale any live animal which is suffering pain by reason of mutilation, starvation or other ill-treatment, or any dead animal which he has reason to believe to have been killed in an unnecessarily cruel manner,

<sup>3</sup> he shall be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty for practising phuka.

4. If any person performs upon any cow the operation called phuka, he shall be punished with fine which may extend to one hundred rupees, or with imprisonment which may extend to three months, or with both.

Penalty for killing animals with unnecessary cruelty anywhere.

5. If any person kills any animal in an unnecessarily cruel manner, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty for employing anywhere animals unfit for labour.

6. (1) If any person employs in any work or labour any animal which by reason of any disease, infirmity, wound, sore or other cause is unfit to be so employed, or permits any such unfit animal in his possession or under his control to be so employed, he shall be punished with fine which may extend to one hundred rupees.

(2) The Local Government may, by general or special order, appoint places to be <sup>4</sup> infirmaries for the treatment and care of animals in respect of which offences against sub-section (1) have been committed.

<sup>1</sup> Cf. Canadian 43 Vict., c. 38, s. 2.

<sup>2</sup> Cf. *ibid* and the Cruelty to Animals Act, 1849 (12 & 13 Vict., c. 92), s. 18.

<sup>3</sup> Cf. the Cruelty to Animals Act, 1849 (12 & 13 Vict., c. 92), s. 18.

<sup>4</sup> For notification under this sub-section appointing an infirmary in :—

(1) Bengal, *see* Ben. Stat. R. and O., Vol. II.

(2) Bombay, *see* Bom. R. and O., Vol. II.

(3) Burma, *see* Bur. R. M., Vol. I, Bur. Gazette, 1908, Pt. I, p. 456.

(4) Central Provinces, *see* Cen. Provs. Local R. and O.

(5) Punjab, *see* Punj. List of Local R. and O.

(6) United Provinces of Agra and Oudh, *see* U. P. List of Local R. and O., Vol. I, and N. W. P. and Oudh Gazette, 1900, Pt. I, p. 619.

(3) The Magistrate before whom a prosecution for such an offence has been instituted may direct that the animal in respect of which the offence is alleged or proved to have been committed shall be sent for treatment and care to an infirmary and be there detained until it is in his opinion, or in the opinion of some other Magistrate, again fit for the work or labour on which it has been ordinarily employed.

(4) The cost of the treatment, feeding and watering of the animal in the infirmary shall be payable by the owner of the animal according to such scale of rates as the District Magistrate or, in the case of an infirmary in a Presidency-town, the Commissioner of Police may from time to time prescribe.

(5) If the owner refuses or neglects to pay such cost and to remove the animal within such time as a Magistrate may prescribe, the Magistrate may direct that the animal be sold and that the proceeds of the sale be applied to the payment of such cost.

(6) The surplus, if any, of the proceeds of the sale shall, on application made by the owner within two months after the date of the sale, be paid to him, but the owner shall not be liable to make any payment in excess of the proceeds of the sale.

7. If any person wilfully permits any animal of which he is the owner to go at large in any street while the animal is affected with contagious or infectious disease, or without reasonable excuse permits any diseased or disabled animal of which he is the owner to die in any street, he shall be punished with fine which may extend to one hundred rupees.

Penalty for permitting diseased animals to go at large or to die in public places.

8. (1) If a Magistrate of the first class, Sub-divisional Magistrate, Commissioner of Police or District Superintendent of Police, upon information in writing and after such inquiry as he thinks necessary, has reason to believe that an offence against section 4, section 5 or section 6 is being or is about to be or has been committed in any place, he may either himself enter and search or by his warrant authorise any police-officer above the rank of a constable to enter and search the place.

Search-warrants.

X of 1882.

(2) The provisions of the <sup>1</sup>Code of Criminal Procedure, 1882, relating to searches under that Code shall, so far as those provisions can be made applicable, apply to a search under sub-section (1).

Limitation for prosecutions.

9. A prosecution for an offence against this Act shall not be instituted after the expiration of three months from the date of the commission of the offence.

<sup>1</sup> See now the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

Destruction  
of suffering  
animals.

10. When any Magistrate, Commissioner of Police or District Superintendent of Police has reason to believe that an offence against this Act has been committed in respect of any animal, he may direct the immediate destruction of the animal if in his opinion its sufferings are such as to render such a direction proper.

Saving with  
respect to  
religious  
rites and  
usages.

11. Nothing in this Act shall render it an offence to kill any animal in a manner required by the religion or religious rites and usages of any race, sect, tribe or class.

Provision  
supplement-  
ary to sec-  
tion 1 with  
respect to  
extent of  
Act.

12. Notwithstanding anything in section 1, sections 9, 10 and 11 shall extend to every local area in which any section of this Act constituting an offence is for the time being in force.

# ACT No. XIII OF 1890.<sup>1</sup>

[28th March, 1890.]

An Act to amend the <sup>2</sup> Excise Act, 1881, and the <sup>3</sup> Bengal Excise Act, 1878, and to apply to Malt Liquor certain provisions of the <sup>4</sup> Sea Customs Act, 1878, respecting spirit.

WHEREAS it is expedient to amend the <sup>2</sup> Excise Act, 1881, and the <sup>3</sup> Bengal Excise Act, 1878, and to apply to malt liquor certain provisions of the <sup>4</sup> Sea Customs Act, 1878, respecting spirit; It is hereby enacted as follows:—

Title and  
commence-  
ment.

<sup>5</sup> 1. (1) This Act may be called the Excise (Malt Liquors) Act, 1890; and

(2) It shall come into force at once.

2—5. [*Amendment of the Excise Act, 1881 (XXII of 1881).*] *Rep. by the Excise Act, 1896 (XII of 1896).*

<sup>6</sup> 6—7. [*Amendment of the Bengal Excise Act, 1878.*] *Not reproduced as they affect the Bengal Code.*

<sup>8</sup> 8. [*Saving of legislative authority of Bengal Council.*] *Not reproduced as it affects the Bengal Code.*

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1890, Pt. V, p. 72; for Debates in Council, see *ibid.* Pt. VI, pp. 31, 68 and 75. The Act has been declared in force in the Angul District by the Angul District Regulation, 1894 (1 of 1894), Ben. Code, Vol. I. S. 9 of the Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

<sup>2</sup> So much of this Act as amends the Excise Act, 1881 (22 of 1881), has been repealed by the Excise Act, 1895 (12 of 1896), U. P. Code, Vol. I and other local codes.

<sup>3</sup> Ben. Code, Vol. I.

<sup>4</sup> Gen. Acts, Vol. II.

<sup>5</sup> Sections 1, 6, 7 and 8 have been declared in force in the Sonthal Parganas,—Regulation 3 of 1872, s. 3, as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, Ben. Code, Vol. I.

XXII of  
1881.  
Ben. VII of  
1878.  
VIII of  
1878.

*Drawback of Excise-duty on Export of Malt Liquor.*VIII of  
1878.

9. The provisions of section 150 of the<sup>1</sup> Sea Customs Act, 1878, with respect to the allowance of a drawback of excise-duty paid on spirit manufactured in British India and exported to a foreign port, and with respect to the regulation of the drawback by the quantity of such spirit, shall apply also, so far as they can be made applicable, to fermented liquor made in British India from malt and so exported and to the drawback of the excise-duty paid on such liquor.

Application of provisions of section 150, Act VIII, 1878, to malt liquor.

ACT No. XVI of 1890.<sup>2</sup>

[11th September, 1890.]

An Act to amend the Births, Deaths and Marriages Registration Act, 1886.<sup>3</sup>

VI of 1886.

WHEREAS it is expedient to amend the<sup>3</sup> Births, Deaths and Marriages Registration Act, 1886 ; It is hereby enacted as follows :—

Amendment of section 32, Act VI, 1886.

1. In section 32 of the said Act, for the words “within one year from the date on which this Act comes into force,” the words “at any time before the first day of April, 1891,” shall be substituted.

2. The following section shall be added to Chapter V of the said Act, namely :—

Addition to new section 35A, Act VI, 1886. Constitution of additional commissions for purposes of this Chapter.

“35A. (1) The Governor General in Council, if he thinks fit, may, by notification in the Gazette of India, appoint more commissions than one for the purposes of this Chapter, each such commission consisting of so many and such members as he may, by a like notification, nominate thereto by name or by office, and having its functions restricted to the disposal, under this Act and the rules thereunder, of the registers or records sent under section 32 to such Registrar General or Registrars General as the Governor General in Council may, by a like notification, specify in this behalf.

“(2) If more commissions than one are appointed in exercise of the power conferred by sub-section (1), then references in this Act to the Commissioners shall be construed as references to the members constituting a commission so appointed.”

<sup>1</sup> Genl. Acts, Vol. II.

<sup>2</sup> Short title, “The Births, Deaths, and Marriages Registration Act (1886) Amendment Act, 1890.” See the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1890, Pt. V, p. 127, and for proceedings in Council, see *ibid*, Pt. VI, pp. 126 and 129.

As being a part of the principal Act, of 1886, it is in force in Upper Burma (except the Shan States), see Burma Laws Act, 1898 (13 of 1898), Bur. Code.

This Act has been declared in force in the Santhál Parganas by s. 3 of the Santhál Parganas Settlement Regulation (3 of 1872), as amended by the Santhál Parganas Justice and Laws Regulation, 1899 (3 of 1899), Ben. Code, Vol. I.

<sup>3</sup> Genl. Acts, Vol. III.

ACT No. XIX OF 1890.<sup>1</sup>

[ 16th October, 1890.]

An Act to amend the <sup>2</sup> Indian Salt Act, 1888.

WHEREAS it is expedient to amend the Indian Salt Act, 1882,<sup>2</sup> for the XXII of 1892  
 purpose of regulating the traffic in Kohat salt in the Punjab; It is hereby  
 enacted as follows :—

Addition to  
 section 3, Act  
 XII, 1882.

1. To section 3 of the <sup>2</sup> Indian Salt Act, 1882, the following shall be added, XII of 1882.  
 namely :—

Kohat salt.

“ ‘Kohat salt’ means salt produced in the district of Kohat in the Punjab.”

Insertion of  
 new Chapter  
 IIIA after  
 Chapter III,  
 Act XII,  
 1882.

2. After Chapter III of the said Act the following shall be inserted  
 namely :—

## “ CHAPTER IIIA.

## “ INDUS PREVENTIVE LINE.

Power to  
 define zones  
 and establish  
 chains of  
 posts.

“ 8A. (1) The Governor General in Council may, from time to time, by  
 rule,—

- (a) define a zone of country not exceeding fifteen miles in breadth—
  - (i) along any portion of the river Indus and at such distance therefrom as he deems expedient, or
  - (ii) in any tract extending from the river to the western frontier of the Punjab,
- (b) extend any such zone so as to include any ferry, or any portion of a railway, canal or navigable river entering the zone, or any place where goods are loaded or unloaded into wagons or boats for the purpose of entering or leaving the zone, and
- (c) within such a zone establish a chain of posts extending along the zone.

“ (2) The establishment of a chain of posts under clause (c) of sub-section (1) shall be deemed to be a purpose within the meaning of the <sup>3</sup> Land Acquisition Act, 1870. X of 1870.

Effect of de-  
 fining a zone

“ 8B. When a zone has been defined and a chain of posts established under

<sup>1</sup> Short title, “The Indian Salt Act (1882) Amendment Act.” See the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1890, p. 126; for Report of the Select Committee, see *ibid*, p. 145, and for Proceedings in Council, see *ibid*, Pt. VI, pp. 124, 127 and 137. As being part of the principal Act, 12 of 1882, this Act is in force in Upper Burma (except the Shan States), see the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

<sup>2</sup> Genl. Acts, Vol. III.

<sup>3</sup> See now the Land Acquisition Act, 1894 (1 of 1894), *infra*.

section 8A, the Governor General in Council may, from time to time, by rule— and establishing a chain of posts.

(a) prohibit any person, except upon such conditions as may be prescribed in the rule, from having in his possession any Kohat salt within the limits of the zone, and,

(b) so far as may be necessary for the prevention of the smuggling of Kohat salt across the chain of posts, control and regulate the passage of traffic across such chain, and provide for the searching of all persons and things crossing or being taken across such chain."

3. The following shall be added to section 25 of the said Act, namely :—

" A salt-revenue-officer shall not be deemed to search or detain any person or to seize the moveable property of any person vexatiously and unnecessarily within the meaning of clause (b) or clause (c) of the first paragraph of this section if the search is authorised by any rule under clause (b) of section 8B and the detention or seizure is such as is necessary for the purposes of such search."

Addition to section 25, Act XII, 1882.

4. To section 27 of the said Act the following shall be added, namely—

" Nothing in this section shall be deemed to affect Chapter IIIA of this Act or any rule under that Chapter."

Addition to section 27, Act XII, 1882.

5. [*Repeal of section 31 of Act XII of 1882.*] *This section and the preamble to it rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

ACT No. I OF 1891.<sup>1</sup>

[30th January, 1891.]

An Act to amend the <sup>2</sup> Cattle-trespass Act, 1871, and incorporate therein <sup>3</sup> Act XVIII of 1883.

WHEREAS it is expedient to amend the <sup>2</sup> Cattle-trespass Act, 1871, and incorporate therein Act XVIII of 1883 (*to amend the Cattle-trespass Act, I of 1871, 1871*) ; It is hereby enacted as follows :—

1. For section 1 of the <sup>2</sup> Cattle-trespass Act, 1871, the following shall be I of 1871. substituted, namely :—

Substitution  
of new sec-  
tion for sec-  
tion I, Act I,  
1871.

Title and  
extent.

“ 1. (1) This Act may be called the <sup>2</sup> Cattle-trespass Act, 1891 ; and

(2) It extends to the whole of British India except the Presidency-towns and such local areas as the Local Government, by notification in the official Gazette, may from time to time exclude from its operation.

(3) The Local Government may at any time by notification in the official Gazette, cancel or vary a notification under sub-section (2).”

2. To section 3 of the said Act the following shall be added, namely :—

Additions to  
section 3,  
Act I, 1871.

“, and

“ ‘ Local authority ’ means any body of persons for the time being invested by law with the control and administration of any matters within a specified local area, and

“ ‘ Local fund ’ means any fund under the control or management of a local authority.”

Amendment  
of section 10,  
Act I, 1871.

3. In section 10 of the said Act, for the words “ take them or cause them to be taken without unnecessary delay ” the words “ send them or cause them to be sent within twenty-four hours ” shall be substituted.

<sup>1</sup> Short title, “ The Cattle-trespass Act Amendment Act, 1891.” See the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1890, Pt. V, p. 104 ; for Report of the Select Committee, see *ibid*, 1891, Pt. V, p. 9, and for Proceedings in Council, see *ibid*, 1890, Pt. VI, pp. 107 and 111 ; *ibid*, 1891, Pt. VI, p. 9.

This Act is in force in Upper Burma (except the Shan States) as being part of the principal Act of 1871 (1 of 1871) declared in force there by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

The Act has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), to British Baluchistan, see Gazette of India, 1892, Pt. II, p. 367. It has also (except ss. 10, 11 and 13) been declared in force in the Santhal Parganas, by s. 3 of the Santhal Parganas Settlement Regulation (3 of 1872) as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (3 of 1899), Ben. Code, Vol. I.

The Act as being part of the principal Act 1 of 1871, is in force in District Angul—see the Schedule to the Angul District Regulation, 1894 (1 of 1894), Ben. Code, Vol. I.

<sup>2</sup> Genl. Acts, Vol. II.

<sup>3</sup> Rep. s. 10 of this Act, see *infra*.

4. In section 11 of the said Act, for the words "take them without unnecessary delay" the words "send them or cause them to be sent within twenty-four hours" shall be substituted.

Amendment  
of section 11,  
Act I, 1871.

5. (1) To the first paragraph of section 12 of the said Act, prescribing the scale according to which the pound-keeper is to levy a fine for every head of cattle impounded, the following proviso shall be added, namely :—

Additions to  
section 12,  
Act I, 1871.

"Provided that, when it appears to the Local Government from the report of a Magistrate of a District, or on the representation of a local authority, that, in any local area subject to the jurisdiction or control of such Magistrate or authority, cattle are habitually allowed to trespass on land and damage crops or other produce thereon, the Local Government may, by notification in the official Gazette, direct that, for every head of cattle of any kind specified therein which may be seized within such local area and impounded as aforesaid, the pound-keeper shall levy such fine, not exceeding double the fine mentioned in the foregoing scale, as may be prescribed in the notification."

(2) After the third paragraph of the same section the following shall be added, namely :—

"The Local Government may at any time, by notification in the official Gazette, cancel or vary a notification under the proviso to the first paragraph of this section.

6. For Chapter V of the said Act the following shall be substituted, namely :—

Substitution  
of new  
Chapter for  
Chapter V,  
Act I, 1871.

## CHAPTER V.

### "COMPLAINTS OF ILLEGAL SEIZURE OR DETENTION.

"20. Any person whose cattle have been seized under this Act, or, having been so seized, have been detained in contravention of this Act, may, at any time within ten days from the date of the seizure, make a complaint to the Magistrate of the District or any Magistrate authorized to receive and try charges without reference by the Magistrate of the District.

Power to  
make com-  
plaints.

"21. The complaint shall be made by the complainant in person, or by an agent personally acquainted with the circumstances. It may be either in writing or verbal. If it be verbal, the substance of it shall be taken down in writing by the Magistrate.

Procedure on  
complaint.

"If the Magistrate, on examining the complainant or his agent, sees reason to believe the complaint to be well founded, he shall summon the person complained against, and make an enquiry into the case.



Compensation for illegal seizure or detention.

"22. If the seizure or detention be adjudged illegal, the Magistrate shall award to the complainant, for the loss caused by the seizure or detention, reasonable compensation, not exceeding one hundred rupees, to be paid by the person who made the seizure or detained the cattle, together with all fines paid and expenses incurred by the complainant in procuring the release of the cattle ;

Release of cattle.

and, if the cattle have not been released, the Magistrate shall, besides awarding such compensation, order their release and direct that the fines and expenses leviable under this Act shall be paid by the person who made the seizure or detained the cattle.

Recovery of compensation.

"23. The compensation, fines and expenses mentioned in section 22 may be recovered as if they were fines imposed by the Magistrate."

Amendment of section 25, Act I, 1871.

7. In section 25 of the said Act the words "under the next following section or " shall be inserted between the words "Any fine imposed " and the words "for the offence of mischief."

Addition to section 26, Act I, 1871.

8. To section 26 of the said Act the following shall be added, namely :—

"The Local Government, by <sup>1</sup> notification in the official Gazette, may from time to time, with respect to any local area specified in the notification, direct that the foregoing portion of this section shall be read as if it had reference to cattle generally, or to cattle of a kind described in the notification instead of to pigs only, or as if the words 'fifty rupees' were substituted for the words 'ten rupees' or as if there were both such reference and such substitution.

"The Local Government may at any time, by notification in the official Gazette, cancel or vary a notification under this section."

Addition of new Chapter after Chapter VII, Act I, 1871.

9. After Chapter VII the following shall be added, namely :—

## "CHAPTER VII.

### "SUPPLEMENTAL.

Power for Local Government to transfer certain functions to local authority and direct

"31. The Local Government may, from time to time, by notification in the official Gazette,—

(a) transfer to any local authority, within any part of the territories under its administration in which this Act is in operation, all or any of the functions of the Local Government or the Magistrate

<sup>1</sup> For notifications issued under the powers conferred by this section, see note to s. 26 of the principal Act, I of 1871, Genl. Acts, Vol. II.

of the District under this Act, within the local area subject to the jurisdiction of the local authority, or

credit of  
surplus re-  
ceipts to  
local fund.

- (b) direct that the whole or any part of the surplus accruing in any district under section 18 of this Act shall be placed to the credit of such local fund or funds as may be formed for any local area or local areas comprised in that district,<sup>1</sup>

and may, from time to time, by notification in the official Gazette, cancel or vary any notification under this section."

I of 1871.

10. Act XVIII of 1883 (*to amend the Cattle-trespass Act, 1871*) is hereby repealed :

Repeal of  
Act XVIII,  
1883.

Provided that orders which have been made and notified under that Act, by the Local Government and are in force immediately before the commencement of this Act shall be deemed to have been made under the <sup>2</sup> Cattle-trespass Act, 1871, as amended by this Act.

I of 1871.

XIII of 1889.

11. In section 6, sub-section (3), of the <sup>3</sup> Cantonments Act, 1889, for the words and figures "Act XVIII of 1883 (*to amend the Cattle-trespass Act, 1871*), the words and figures "the Cattle-trespass Act, 1871," shall be substituted.

Amendment  
of section 6  
(3), Act  
XIII, 1889.

I of 1871.

I of 1871.

12. Any enactment or document referring to the <sup>2</sup> Cattle-trespass Act, 1871, or to Act XVIII of 1883 (*to amend the Cattle-trespass Act, 1871*), shall be construed to refer to the <sup>2</sup> Cattle-trespass Act, 1871, as amended by this Act.

Saving of  
references.

I of 1871.

13. This Act shall come into force on the first day of April, 1891.

Commence-  
ment.

<sup>1</sup> For notifications issued under the powers conferred by this section, see note to s. 31 of Act 1 of 1871, Genl. Acts, Vol. II.

<sup>2</sup> Genl. Acts, Vol. II.

<sup>3</sup> *Supra*.

ACT No. II OF 1891.<sup>1</sup>

[6th February, 1891.]

An Act to amend the <sup>2</sup> Indian Christian Marriage Act, 1872.

WHEREAS it is expedient to amend the <sup>2</sup> Indian Christian Marriage Act, XV of 1872. 1872; It is hereby enacted as follows :—

1. (1) For section 6 of the <sup>2</sup> Indian Christian Marriage Act, 1872, the XV of 1872. following shall be substituted, namely :—

“6.<sup>3</sup> The Local Government, so far as regards the territories under its administration, and the Governor General in Council, so far as regards any Native State, may, by notification in the local official Gazette or in the Gazette of India, as the case may be, grant licenses to Ministers of Religion to solemnize marriages within such territories and State, respectively, and may by a like notification, revoke such licenses.”

(2) A license to solemnize marriages granted to a Minister of Religion under Act XXV of 1864 (*to provide further for the solemnization of marriages in India of persons professing the Christian Religion*) shall be deemed, if in force on the day on which the Indian Marriage Act, 1865, came into force, to have been, while that Act was in force, a license granted under that Act, and, if in force on the day on which the <sup>2</sup> Indian Christian Marriage Act, 1872, came into force, to have been since that Act came into force, a license granted under that Act.

V of 1865.

(3) A license to solemnize marriages granted to a Minister of Religion under Act XXV of 1864 (*to provide further for the solemnization of marriages in India of persons professing the Christian Religion*), the Indian Marriage Act, 1865, or the <sup>2</sup> Indian Christian Marriage Act, 1872, shall, if in force immediately before the commencement of this Act, be deemed to have been granted under the Indian Christian Marriage Act, 1872, as amended by sub- XXV of 1872. section (1) of this section.

<sup>1</sup> Short title, “The Indian Christian Marriage Act (1872) Amendment Act, 1891.” See the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1890, Pt. V, p. 110; for Report of the Select Committee, see *ibid*, 1891, Pt. V, p. 17 and for Proceedings in Council, see *ibid*, 1890, Pt. VI, pp. 113 and 144; *ibid*, 1891, Pt. VI, pp. 5 and 15.

This Act is in force in Upper Burma (except the Shan States) as being part of the principal Act, 15 of 1872, declared in force there by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

The Act has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), to British Baluchistan, see Gazette of India, 1892, Pt. II, p. 53. It has also been declared in force in the Santhál Parganas by s. 3 of the Santhál Parganas Settlement Regulation (3 of 1872) as amended by the Santhál Parganas Justice and Laws Regulation, 1899 (3 of 1899), Ben. Code, Vol. I.

<sup>2</sup> Genl. Acts, Vol. II.

<sup>3</sup> For notifications issued under the powers conferred by this section, see the principal Act, 15 of 1872, Genl. Acts, Vol. II.

Substitution  
of new sec-  
tion for sec-  
tion 6, Act  
XV, 1872.

Grant and re-  
vocation of  
licenses to  
solemnize  
marriages.

(4) [*Repeal of Act XV of 1884.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

2. To the proviso to section 10 of the said Act the following shall be added, namely :—

“or

(3) a Clergyman of the Church of Scotland solemnizing a marriage according to the rules, rites, ceremonies and customs of the Church of Scotland.”

3. In section 11 of the said Act, after the words “other than a church” the words “where worship is generally held according to the forms of the Church of England” shall be added, and between the word “no” and the word “church” in the expression “unless there is no church” the word “such” shall be inserted.

4. (1) For section 62 of the said Act the following shall be substituted, namely :—

“62. <sup>1</sup> (1) Every person licensed under section 9 shall keep in English, or in the vernacular language in ordinary use in the district or State in which the marriage was solemnized, and in such form as the Local Government by which he was licensed may from time to time prescribe, a register-book of all marriages solemnized, under this Part in his presence, and shall deposit in the office of the Registrar-General of Births, Deaths and Marriages for the territories under the administration of the said Local Government, in such form and at such intervals as that Government may prescribe, true and duly authenticated extracts from his register-book of all entries made therein since the last of those intervals.

“(2) Where the person keeping the register-book was licensed as regards a Native State by the Governor-General in Council, references in sub-section (1) to the Local Government therein mentioned shall be read as references to the Local Government to whose Registrar-General of Births, Deaths and Marriages certified copies of entries in registers of births and deaths are for the time being required to be sent under section 24, sub-section (2), of the Births Deaths and Marriages Registration Act, 1886.”

\* \* \* \* \*

5. For section 66 of the said Act the following shall be substituted, namely :—

<sup>1</sup> For notifications issued under this section, see notes to s. 62 in the principal Act, 15 of 1872, Genl. Acts, Vol. II.

<sup>2</sup> Sub-section (2) of s. 4, which repeals cl. (c) of s. 30 of the Births, Deaths and Marriages Registration Act, 1886, was repealed by the Repealing and Amending Act, 1891 (12 of 1891).

Addition to proviso to section 10, Act XV, 1872.

Amendment of section 11, Act XV, 1872.

Substitution of new section for section 62, Act XV, 1872.

Keeping of register-book and deposit of extracts therefrom with Registrar-General.

Substitution of new section for section 66, Act XV, 1872.

False oath,  
declaration,  
notice or  
certificate for  
procuring  
marriage.

“66. Whoever, for the purpose of procuring a marriage or license of marriage, intentionally,—

- (a) where an oath or declaration is required by this Act, or by any rule or custom of a Church according to the rites and ceremonies of which a marriage is intended to be solemnized, such Church being the Church of England or of Scotland or of Rome, makes a false oath or declaration, or,
- (b) where a notice or certificate is required by this Act, signs a false notice or certificate,

shall be deemed to have committed the offence punishable under section 193 of the <sup>1</sup> Indian Penal Code with imprisonment of either description for a term which may extend to three years and, at the discretion of the Court, with fine.”

Substitution  
of new sec-  
tion for sec-  
tion 68, Act  
XV, 1872.

6. For section 68 of the said Act the following shall be substituted, namely :—

Solemnizing  
marriage  
without due  
authority.

“68. Whoever, not being authorized by section 5 of this Act to solemnize marriages, solemnizes or professes to solemnize, in the absence of a Marriage Registrar of the district in which the ceremony takes place, a marriage between persons one or both of whom is or are a Christian or Christians, shall be punished with imprisonment which may extend to ten years, or (in lieu of a sentence) of imprisonment for seven years or upwards with transportation for a term of not less than seven years and not exceeding ten years,

or, if the offender is an European or American, with penal servitude according to the provisions of <sup>2</sup> Act XXIV of 1855 (*to substitute penal servitude for the punishment of transportation in respect of European and American convicts, and to amend the law relating to the removal of such convicts*),

and shall also be liable to fine.”

Addition to  
section 69,  
Act XV, 1872.

7. To section 69 of the said Act the following shall be added, namely :—

“Nor does this section apply to marriages solemnized by a Clergyman of the Church of Scotland according to the rules, rites, ceremonies and customs of the Church of Scotland.”

Amendment  
of sections,  
71 and 72,  
Act XV,  
1872.

8. (1) For clause (2) of section 71 of the said Act the following shall be substituted, namely :—

<sup>1</sup> Genl. Acts, Vol. I.

<sup>2</sup> Genl. Acts, Vol. I.

“(2) after the expiration of two months after the copy of the notice has been entered as required by section 40 in respect of any marriage, solemnizes such marriage ;”

Amendment  
of section 86,  
Act XV,  
1872.

(2) In section 72 of the said Act, for the words “ three months ” the words “ two months ” shall be substituted.

9. To section 74 of the said Act the following shall be added, namely :—

“ Whoever, being licensed to grant certificates of marriage under Part VI of this Act, without just cause refuses, or wilfully neglects or omits, to perform any of the duties imposed upon him by that Part, shall be punished with fine which may extend to one hundred rupees.”

Addition to  
section 74,  
Act XV,  
1872.

10. Section 86 of the said Act shall be read as if the words “ situate within or bordering on ” instead of the words “ situate within the local limits of ” had been enacted in that section when the Act was passed.

ACT No. III of 1891.<sup>1</sup>

[13th February, 1891.]

An Act to amend the <sup>2</sup> Indian Evidence Act, 1872, and the <sup>3</sup> Code of Criminal Procedure, 1882.

I of 1872,  
X of 1882.

WHEREAS it is expedient to amend the <sup>2</sup> Indian Evidence Act, 1872, and the Code of Criminal Procedure, 1882 ; It is hereby enacted as follows :—

<sup>2</sup> Indian Evidence Act, 1872.

I of 1872.

1. (1) For the Explanation to section 14 of the <sup>2</sup> Indian Evidence Act, 1872, the following shall be substituted, namely :—

Amendment  
of section 14,  
Act I, 1872.

“ Explanation 1.—A fact relevant as showing the existence of a relevant

<sup>1</sup> Short title, “ The Indian Evidence Act (1872) Amendment Act, 1891.” See the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1890, Pt. V, p. 100 ; for the Report of the Select Committee, see *ibid*, 1891, Pt. V, p. 25 and for Proceedings in Council, see *ibid*, 1890, Pt. VI, pp. 105 and 144 ; *ibid*, 1891, Pt. VI, pp. 17 and 21.

So far as this Act amends Act I of 1872, it is in force in Upper Burma (except the Shan States) as being part of that Act, declared in force there by the Burma Laws Act, 1898 (18 of 1898), Bur. Code.

The Act has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), to British Baluchistan, see Gazette of India, 1892, Pt. II, p. 367. It has also been declared in force in the Santhal Parganas by s. 3 of the Santhal Parganas Settlement Regulation (3 of 1872), as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (3 of 1899), Ben. Code, Vol. I.

The Act, as being part of the principal Act, I of 1872, is in force in the Angul District, see Schedule to the Angul District Regulation, 1894 (1 of 1894), Ben. Code, Vol. I ; it has been declared applicable to Hill-tribes in the Kachin Hill-tracts of Upper Burma, see Schedule to the Kachin Hill-tribes Regulation, 1895 (1 of 1895), Bur. Code ; to Chins in the Chin Hills of Upper Burma, see Schedule to the Chin Hills Regulation, 1896 (5 of 1896), Bur. Code ; in the Chittagong Hill Tracts, see the Chittagong Hill Tracts Regulation, 1900 (1 of 1900), E. B. and A. Code.

<sup>2</sup> Genl. Acts, Vol. I.

<sup>3</sup> Rep. by the Code of Criminal Procedure, 1898 (Act 5 1898), *infra*.

state of mind must show that the state of mind exists, not generally, but in reference to the particular matter in question.

“ *Explanation 2.*—But where, upon the trial of a person accused of an offence, the previous commission by the accused of an offence is relevant within the meaning of this section, the previous conviction of such person shall also be a relevant fact.”

(2) For *Illustration (b)* to the same section the following shall be substituted, namely :—

“(b) A is accused of fraudulently delivering to another person a counterfeit coin which at the time when he delivered it, he knew to be counterfeit.

The fact that at the time of its delivery, A was possessed of a number of other pieces of counterfeit coin is relevant.

The fact that A had been previously convicted of delivering to another person as genuine a counterfeit coin knowing it to be counterfeit is relevant.”

Amendment  
of section 15,  
Act I, 1872.

2. In section 15 of the said Act, after the word “intentional,” there shall be inserted the words “or done with a particular knowledge or intention.”

Addition to  
section 26,  
Act I, 1872.

3. To section 26 of the said Act the following shall be added, namely :—

“ *Explanation.*—In this section ‘Magistrate’ does not include the head of a village discharging magisterial functions in the Presidency of Fort St. George or in Burma or elsewhere, unless such headman is a Magistrate exercising the powers of a Magistrate under the <sup>1</sup>Code of Criminal Procedure, X of 1882. 1882.

Addition of  
Explanation  
to section 30,  
Act I, 1872.

4. In section 30 of the said Act, immediately before the *Illustrations* the following shall be inserted, namely :—

“ *Explanation.*—‘Offence’ as used in this section includes the abetment of, or attempt to commit, the offence.”

Addition to  
section 43,  
Act I, 1872.

5. To section 43 of the said Act the following *Illustrations* shall be added, namely :—

“(e) A is charged with theft and with having been previously convicted of theft. The previous conviction is relevant as a fact in issue.

“(f) A is tried for the murder of B. The fact that B prosecuted A for libel and that A was convicted and sentenced is relevant under section 8 as showing the motive for the fact in issue.”

Substitution  
of new section  
for section 54,  
Act I, 1872.  
Previous bad  
character not  
relevant, ex-  
cept in reply.

6. For section 54 of the said Act the following shall be substituted, namely :—

“ 54. In criminal proceedings the fact that the accused person has a bad character is irrelevant, unless evidence has been given that he has a good character, in which case it becomes relevant.

<sup>1</sup> See now the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

"*Explanation 1.*—This section does not apply to cases in which the bad character of any person is itself a fact in issue.

"*Explanation 2.*—A previous conviction is relevant as evidence of bad character."

7. In the *Explanation* to section 55, after the word "but" there shall be inserted the words and figures "except as provided in section 54."

Amendment  
of *Explanation*  
to section  
55, Act I,  
1872.

8. In section 86 of the said Act, for the words "resident in" the words "in or for" shall be substituted. <sup>1</sup> \* \* \* \*

Amendment  
of section 86,  
Act I, 1872.

*Code of Criminal Procedure, 1882.*

9. [*Amendment of section 310, Act X, 1882.*] *Rep. by the Code of Criminal Procedure, 1898 (Act V of 1898).*

ACT No. VI OF 1891.<sup>2</sup>

[6th March, 1891.]

An Act to amend certain Acts respecting Indian Merchant Shipping.

WHEREAS it is expedient to amend certain Acts respecting Indian Merchant Shipping; It is hereby enacted as follows:—

<sup>3</sup>*Act I of 1859.*

1. (1) In clause 1 of section 12 of <sup>3</sup>Act I of 1859, for the words "or any higher rank in the service of Her Majesty or of the East India Company," the following words shall be substituted, namely:—

Amendment  
of section 12,  
Act I, 1859.

"or any corresponding or higher rank in the service of Her Majesty or the rank of commander or first grade officer in the Indian Marine Service".

(2) In clause 2 of the same section, after the words "any such ship as aforesaid," the following words shall be inserted, namely:—

"or who has attained or shall attain the rank of second grade officer in the Indian Marine Service,".

<sup>1</sup> The words "and to the same section the following shall be added, namely" and the addition were repealed by s. 5 of the Indian Evidence Act, 1899 (5 of 1899).

<sup>2</sup> Short title, "The Indian Merchant Shipping Law Amendment Act, 1891." See the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1890, Pt. V, p. 216; for the Report of the Select Committee, see *ibid*, 1891, Pt. V, p. 33 and for Proceedings in Council, see *ibid*, 1891, Pt. VI, pp. 2, 30 and 32.

<sup>3</sup> Genl. Acts, Vol. I.



Addition of  
section after  
section 24,  
Act I, 1859.

2. After section 24 of the same Act the following shall be inserted, namely :—

Renewal of  
running  
agreements  
in certain  
cases.

“24A. (1) When a running agreement with the crew of a foreign-going ship has been made under section 23 and the ship arrives after the next following thirtieth day of June or thirty-first day of December at a port of destination in India which is not the port at which the crew have agreed to be discharged, the master may, with the previous sanction of the shipping-master, renew the agreement with the crew, or may be required by the shipping-master so to renew the agreement, for the voyage from such port of destination to the port in India at which the crew have agreed to be discharged.

“(2) If the master of the ship is required by the shipping-master to renew the agreement as aforesaid and refuses so to renew it, any expenses which may be incurred by the Government for the subsistence of the crew and their conveyance to the port at which they have agreed to be discharged shall be a charge upon the ship, and shall be recoverable as if they were expenses incurred in respect of distressed seamen under the provisions of Chapter III of the <sup>1</sup> Indian Merchant Shipping Act, 1880.”

VII of 1880.

Addition to  
section 32,  
Act I, 1859.

3. To section 32 of the same Act the following shall be added, namely :—

“Notwithstanding anything in this section or in any other enactment for the time being in force, the owner of home-trade ships or his agent may enter into time-agreements, in forms to be sanctioned by the Governor-General in Council, with individual seamen to serve in any one or more ships belonging to him, which agreements need not expire on either the thirtieth day of June or the thirty-first day of December.”

Amendment  
of section  
115, Act I,  
1859.

4. To section 115 of the same Act the following shall be added, namely :—

“and for the repayment to the Secretary of State for India in Council of all expenses which may be incurred by the Government in respect of any such lascar or other native seaman who may be discharged or left behind at any port out of India and becomes distressed and is relieved under the provisions of the <sup>2</sup> Merchant Shipping Act, 1854, section 211, and the enactments amending the same.”

17 & 18 Vict.  
c. 104.

Modification  
of section  
118, Act I,  
1859.

5. Section 118 of the same Act shall be modified as follows, namely :—

(1) in the definition of “home-trade ship” the words “or in the Straits Settlements” shall be inserted between the words “on

<sup>1</sup> Genl. Acts, Vol. III.

<sup>2</sup> See now s. 185 of the Merchant Shipping Act, 1894 (57 and 58 Vict., Cap. 60), Coll. Stats. Ind., Vol. II.

the Continent of India” and the words “or in the Island of Ceylon,” and

- (2) in the definition of “foreign-going ship” the words “nor in the Straits Settlements” shall be inserted between the words “nor on the Continent of India” and the words “nor in the Island of Ceylon.”

<sup>1</sup> *The Indian Merchant Shipping Act, 1880.*

VII of 1880.

6. For section 72 of the Indian Merchant Shipping Act, 1880, the following shall be substituted, namely :—

Substitution  
of new sec-  
tion for sec-  
tion 72, Act  
VII, 1880.  
Savings.

“72. But nothing in this Chapter shall be deemed to—

- (a) affect the declaration of the twenty-third day of October, 1889, in the schedule to this Act, between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic, with reference to the disposal of the proceeds of wrecks on their respective coasts, that declaration having been made applicable to India, or

X of 1889.

- (b) affect section 29 of the <sup>2</sup> Indian Ports Act, 1889, or entitle any person to salvage in respect of any property recovered by creeping or sweeping in contravention of that section.”

7. In section 74 of the same Act, after the words “so appointed” the words “or bringing within such limits any wreck which has been found and taken possession of elsewhere” shall be inserted.

Amendment  
of section 74,  
Act VII,  
1880.

8. To the same Act the schedule in the schedule to this Act shall be added.

Addition of  
schedule to  
Act VII,  
1880.

<sup>3</sup> *The Indian Merchant Shipping Act, 1883.*

V of 1883.

9. To section 6 of the Indian Merchant Shipping Act, 1883, the following shall be added, namely :—

Amendment  
of section 6,  
Act V, 1883.

“(4) The Magistrate or other officer whose duty it is under sub-section (1) to report to the Local Government such information as is referred to in that sub-section shall be deemed to be a public servant, and shall have all the powers which an inspector appointed under section 14 of the <sup>4</sup> Merchant Shipping Act, 1854, has under clauses (1) to (5) of section 15 of that Act, that is to say :—

17 & 18 Vict.,  
c. 104.

- (1) he may go on board any ship, and may inspect the same or any

<sup>1</sup> Genl. Acts, Vol. III.

<sup>2</sup> See now the Indian Ports Act, 1908 (15 of 1908), Genl. Acts, Vol. VI.

<sup>3</sup> Genl. Acts, Vol. III.

<sup>4</sup> See now s. 728 of the Merchant Shipping Act, 1894 (57 to 58 Vict., c. 60), by which this Act has been repealed: Coll. Stats. Ind., Vol. II.

part thereof, or any of the machinery, boats, equipments or articles on board thereof, to which the provisions of this Act apply, not unnecessarily detaining or delaying her from proceeding on any voyage :

- (2) he may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make :
- (3) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make :
- (4) he may require and enforce the production of all books, papers or documents which he considers important for such purpose :
- (5) he may administer oaths, or may, in lieu of requiring or administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

‘ (5) The word ‘ coasts ’ in this section includes the coasts of creeks and tidal rivers.”

New sub-section substituted for sub-section (1) of section 7, Act V, 1883.

10. For sub-section (1) of section 7 of the same Act the following shall be substituted, namely :—

Power for Local Government to appoint special Court of investigation.

(1) If the Local Government to which the report prescribed by the last foregoing section has been made or within whose territories any competent witness of any such loss, abandonment, stranding, damage or casualty as is described in clauses (a), (b), (c) or (d) of sub-section (1) of the same section have arrived or are to be found or any evidence of such supposed loss as is described in clause (e) of the same sub-section can be obtained, is of opinion that a formal investigation into the facts mentioned in any of the said clauses is requisite or expedient, such Local Government may appoint a special Court, consisting of not less than two nor more than four persons, and direct that Court to make the investigation, and may fix the place for making the same.”

Amendment of section 8, Act V, 1883.

11. In section 8 of the same Act, after the words “ Local Government ” the words “ or by such officer as the Local Government has empowered in this behalf ” shall be inserted.

12. [*Amendment of section 20, Act V, 1883.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

13. After section 24 of the same Act the following shall be added, namely:—

Addition of section after section 24, Act V, 1883.

32 Vict., c.  
11.

“24A. (1) Notwithstanding anything in the foregoing provisions of this Act, a certificate (whether of competency or service) which has been granted by any Local Government to a master, mate or engineer, but has not been granted under the provisions of the <sup>1</sup>Merchant Shipping (Colonial) Act, 1869, or of any Order in Council under the said Act, may, if a Court conducting an investigation under this Act finds that the loss, stranding or abandonment of or damage to any ship, or loss of life, has been caused by the wrongful act or default of the master, mate or engineer, or that he is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct, be cancelled or suspended by the Court :

Power to Court to suspend or cancel certificates granted by Local Government.

“Provided that the Court shall not cancel or suspend a certificate unless the holder of the certificate was furnished before the commencement of the investigation with the copy of the report or statement required by section 9 or section 10, as the case may be.

“(2) At the conclusion of the investigation, or as soon afterwards as possible, the Court shall state in open sitting the decision to which it may have come with respect to the cancelment or suspension of any certificate.

“(3) A master, mate or engineer whose certificate has been cancelled or suspended by the Court shall deliver the certificate to the Court, and the Court shall forward it to the Local Government, together with the report which it is required by section 17, sub-section (1), to transmit to that Government.

“(4) A master, mate or engineer failing to deliver a certificate as required by sub-section (3) shall be punished with fine which may extend to five hundred rupees.

“(5) The duties imposed and powers conferred by sections 22, 23 and 24 on the Local Government which cancels or suspends a certificate shall, when a Court has under this section cancelled or suspended a certificate, be performed and exercised by the Local Government to which the Court has forwarded the certificate under sub-section (3), as if such Local Government had itself cancelled or suspended the certificate under section 20.”

<sup>1</sup> See now the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60), by which this Act has been repealed : Coll. Stats. Ind., Vol. II.

*Supplemental.*

General  
provision  
with respect  
to surrender  
of certificates.

14. (1) When the certificate of a master, mate, engineer or engine-driver is cancelled or suspended under any law for the time being in force, he shall deliver to the Court or person entitled to receive delivery from him of such cancelled or suspended certificate every other certificate, if any, held by him which has been granted to him under any of the <sup>1</sup>Merchant Shipping Acts, 1854 to 1889, or to which the provisions of any such Act have been made applicable under the <sup>1</sup> Merchant Shipping (Colonial) Act, 1869, or which has been granted to him by any Local Government in British India.

17 & 18 Vict.,  
c. 104, etc.  
32 Vict., c.  
11.

(2) If any master, mate, engineer or engine-driver fails to comply with the requirement of sub-section (1), he shall be punished with fine which may extend to five hundred rupees.

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THE SCHEDULE.

(See section 8.)

THE SCHEDULE.

(See section 72.)

*Declaration between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic, with reference to the disposal of the proceeds of Wrecks on their respective Coasts.*

The Government of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and the Government of the French Republic, desiring to regulate by a new Agreement questions relative to the disposal of the proceeds of wrecks on the coasts of the two States, have agreed to replace the Declaration signed at London on the 16th June, 1879, by the following arrangements :—

ARTICLE I.

When any ship belonging to the subjects of one of the two contracting States is wrecked or stranded on the coast of the other, the competent local authorities shall, with as little delay as possible, bring the fact to the knowledge of the Consul General, Consul, Vice-Consul or Consular Agent nearest to the spot where the wreck or stranding has taken place.

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<sup>1</sup> See now the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60), by which these Acts have been repealed : Coll. Stats. Ind., Vol. II.

## ARTICLE II.

All operations relative to the salvage of British ships which may be wrecked or stranded on the coasts of France shall be directed by the Consuls General, Consuls, Vice-Consuls or Consular Agents of Great Britain, and reciprocally the French Consuls General, Consuls, Vice-Consuls and Consular Agents shall direct all operations relative to the salvage of ships of their nations wrecked or stranded on the coasts of Great Britain.

## ARTICLE III.

If the owners of the ship and cargo, or their duly authorised representatives, shall be present and shall claim it, the Consuls General, Consuls, Vice-Consuls and Consular Agents shall hand over to them the conduct of the salvage operations after requiring the deposit of the ship's papers, as well as the reimbursement of the expenses already defrayed, and a sufficient guarantee for those incurred before the operations were handed over, and which may not have been already settled.

## ARTICLE IV.

The intervention of the local authorities shall only take place in the two countries for the purpose of assisting the Consular authority, of maintaining order, of securing the interests of the salvors if they are strangers to the shipwrecked crews, and of assuring the due execution of the arrangements to be carried out for the entry and departure of the merchandise saved.

In the absence, and until the arrival, of the Consuls General, Consuls, Vice-Consuls or Consular Agents, the local authorities shall, moreover, take all necessary measures for the protection of the persons and for the preservation of the articles which shall have been saved from the wreck.

This intervention shall not give rise to any charges, with the exception of those which the salvage operations and the protection of the articles saved shall have rendered necessary, and those to which national ships would, under similar circumstances, be liable. These charges shall be paid according to the circumstances of the case, either by the Agents of the Consular service, or by their owners or their proxies.

In case absence, sickness or any other cause should prevent the Agents of the Consular service from seeing to the operations and the management of the salvage, the local authorities who may be charged with the operations and management in question shall be bound to remit to the aforesaid Agents the ship's papers and the net proceeds of the ship and the cargo.

## ARTICLE V.

The merchandise and articles saved shall not be liable to any customs duties, unless they are intended for home consumption, in which case they shall pay the same duties as they would have had to pay if they had been imported in national vessels.

## ARTICLE VI.

The stipulations of the present <sup>1</sup>Declaration shall be applicable to all the Colonies and foreign possessions of Her Britannic Majesty, excepting to those hereinafter named, that is to say, except to—

<sup>1</sup> India.	Victoria.
The Dominion of Canada.	Queensland.
Newfoundland.	Tasmania.
The Cape.	South Australia.
Natal.	Western Australia.
New South Wales.	New Zealand.

Provided always that the stipulations of the present Declaration shall be made applicable to any of the abovenamed Colonies or foreign possessions on whose behalf notice to that effect shall have been given by Her Britannic Majesty's Representative to the French Republic within one year from the date of the signature of the present Declaration.

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of France.

## ARTICLE VII.

The present Declaration shall come into operation three months after the date of its signature, and shall remain in force until the expiration of one year from the day on which either Party may give notice of its intention to terminate it.

In witness whereof, the undersigned Plenipotentiaries, His Excellency the Earl of Lytton, Ambassador of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Excellency M. Eugene Spuller, Minister for Foreign Affairs, have signed the present Declaration, and have affixed thereto their seals.

Done at Paris, this twenty-third day of October, 1889.

(L.S.) LYTTON.

(L.S.) E. SPULLER.

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<sup>1</sup> The Declaration has been made applicable to India, *see s. 6, supra.*

ACT No. VII of 1891.<sup>1</sup>

[6th March, 1891.]

An Act to amend <sup>2</sup>Act X of 1841.

WHEREAS it is expedient to amend the Act of the Governor General in Council, No. X of 1841 <sup>3</sup> (*an Act for prescribing the rules to be observed in order that ships or vessels belonging to ports within the territories under the Government of the East India Company, or belonging to Native Princes or States, or their subjects, may become entitled to the privileges of British ships under a proclamation of the Governor General of India in Council made in pursuance of the <sup>3</sup>Statute 3rd & 4th Vict., c. 56*); It is hereby enacted as follows:—

1. [*Repeal of a word in section 2, Act X of 1841.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

2. For that portion of section 3 of the said Act, beginning with the words “the persons now authorised” and ending with the words “such other or different persons”, the words “such persons” shall be substituted.

Amendment of section 3, Act X of 1841.

3. For sections 8 to 12, both inclusive, of the said Act, the following shall be substituted, namely:—

Substitution of new sections for sections 8 to 12, Act X of 1841.

“8. The certificate of the surveying officer shall be in the form in the schedule to this Act or in such other form as the Governor-General in Council may from time to time prescribe; and such certificate shall be delivered to the registering officer before registry.

Certificate of surveying officer.

XIII of 1876. 17 & 18 Vict., c. 104. 52 & 53 Vict., c. 43. “9. Subject to the provisions of section 70 of <sup>4</sup>Act I of 1859 (*an Act for the amendment of the law relating to Merchant Seamen*) as amended by section 9 of the Indian <sup>5</sup>Merchant Seamen’s Act, 1876, the tonnage of a ship or vessel required by law to be registered shall, previous to her being registered, be measured and ascertained according to such of the rules and orders for the time being in force in and under the <sup>6</sup>Merchant Shipping Act, 1851, as amended by subsequent Acts [including the <sup>6</sup>Merchant Shipping (Tonnage) Act, 1889], as apply to measurement of tonnage for the purpose of registry.

Measurement of tonnage for purpose of registry.

<sup>1</sup> Short title, “The Indian Registration of Ships Act (1841) Amendment Act, 1891.” See the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1890, Pt. V, p. 248; for Report of the Select Committee, see *ibid*, 1891, Pt. V, p. 39 and for Proceedings in Council, see *ibid*, 1891, Pt. VI, pp. 2, 26, 30 and 33.

<sup>2</sup> Genl. Acts, Vol. I.

<sup>3</sup> Rep. as to all H. M.’s dominions by S. L. R. (No. 2) of 1890.

<sup>4</sup> Genl. Acts, Vol. I.

<sup>5</sup> Genl. Acts, Vol II.

<sup>6</sup> See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), Coll. Stats. Ind., Vol. II.



Measurement  
of tonnage  
for purpose  
other than  
registry.

" 10. Subject to the provisions referred to in the last foregoing section, the tonnage of a ship or vessel requiring to be measured for any purpose other than registry shall be measured and ascertained according to such of the rules and orders for the time being in force in and under the <sup>1</sup>Merchant Shipping Act, 1854, amended as aforesaid, as apply to measurement of tonnage for a purpose other than registry. 17 & 18 Vict. c. 104.

Substitution  
of Governor  
General in  
Council for  
Board of  
Trade.

" 11. The rules and orders referred to in section 9 and section 10 of this Act shall, in their application to measurement of tonnage for the purposes of this Act, or of any enactment, rule or order referring to this Act, be read and construed as if the Governor General in Council were therein named instead of the Board of Trade or the authority for which the Board of Trade has been substituted by section 3 of the <sup>1</sup>Merchant Shipping Act, 1872.

Marking of  
register ton-  
nage on ship  
or vessel.

" 12. The true amount of the register tonnage of every ship or vessel to be measured and ascertained according to the rules and orders referred to in section 9 of this Act shall be deeply carved or cut in figures of at least three inches in length on the main beam of every such ship or vessel prior to her being registered."

35 & 36 Vict.,  
c. 73.

Amendment  
of section 14,  
Act X of  
1841.

4. In section 14 of the said Act, to the word "tonnage" wherever it occurs, the word "register" shall be prefixed, and for the words "rules herein prescribed" the words "sail rules and orders" shall be substituted.

Amendment  
of section 15,  
Act X of  
1841.

5. In section 15 of the said Act, \* \* \* \* for the words and figures "Act No. II of 1839" the words "the law for the time being in force for the recovery of fines imposed by Criminal Courts" shall be substituted.

6. [*Repeal of words in section 17, Act X of 1841.*] *Rep by the Repealing and Amending Act, 1891 (XII of 1891).*

(2) To <sup>3</sup>[section 17 of the said Act] the words "recoverable as aforesaid" shall be added.

Amendment  
of section 23,  
Act X of  
1841.

7. In section 23 of the said Act, after the words "ten thousand rupees" the words "recoverable as aforesaid" shall be inserted.

Amendment  
of section 24,  
Act X of  
1841.

8. In section 24 of the said Act, \* \* \* \* for the words "for the Governor of Fort William in Bengal or for the Governor in Council of any presidency" and for the words "for the Governor of Fort William in Bengal or the Governor in Council of any presidency" the words "for a Local Government" shall be substituted.

<sup>1</sup> See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), Coll. Stats. Ind., Vol. II.

<sup>2</sup> The words "the words, 'or the East India Company' are hereby repealed, and" were repealed by the Repealing and Amending Act, 1891 (12 of 1891).

<sup>3</sup> These words were substituted for the words "the same section," by the Amending Act, 1891 (12 of 1891), *infra*.

<sup>4</sup> The words "the words 'issued under the Company's seal and' are hereby repealed, and" were repealed by the Repealing and Amending Act, 1891 (12 of 1891).

9. After section 26 of the said Act, and before the Proclamation th Addition to Act X of 1841.  
following shall be inserted, namely :—

“27. The expressions ‘Local Government,’ ‘Local Governments of Definition of India’ and ‘Government of the Presidency,’ as used in this Act, shall be “Local Government.”  
deemed to include, and to have always included, every person who is a ‘Local Government’ as defined in section 2, clause (10), of the <sup>1</sup>General Clauses Act, 1868.”

1 of 1868.

### “THE SCHEDULE.”

(See section 8.)

ACT X, 1841.

#### Certificate of Survey.

Name of Ship.	Port of intended Registry.	Official number, if there has been any former Registry.

Whether a Sailing or Steam Ship; and, if a Steam Ship, how propelled.	Where Built.	When Built.	Name and Address of Builders.

Number of Decks . . .	Length from fore part of stem, under the	Feet.	Tent s.
Number of Masts . . .	bow-sprit, to the aft side of the head of		
Rigged . . .	the stern post.		
Stern . . .	Main breadth to outside of plank . . .		
Build . . .	Depth in hold from tonnage deck to ceiling		
Galleries . . .	at midships . . .		
Head . . .	Depth in hold from upper deck to ceiling at		
Framework . . .	midships, in the case of three decks and		
	upwards . . .		
	Length of engine room, if any . . .		

#### “PARTICULARS OF ENGINES (IF ANY).”

No. of Engines.	Description.	Whether British or Foreign made.	When made.	Name and Address of Makers.	Diameter of Cylinders.	Length of Stroke.	No. of Horses' Power (combined).
			Engines.				
			Boilers.				

<sup>1</sup> See now the Genl. Clauses Act, 1897 (10 of 1897), *infra*.

## "PARTICULARS OF TONNAGE.

GROSS TONNAGE.	No. of Tons.	DEDUCTION ALLOWED.	No. of Tons.
Under Tonnage Deck .		On account of space require for propelling power .	
Closed-in spaces above the Tonnage Deck, if any .		On account of spaces occupied by Seamen or Apprentices and appropriated to their use and kept free from goods or stores of every kind not being the personal property of the Crew .	
Space or spaces between Decks . . . .		These spaces are the following, namely :—	
Poop . . . .			
Forecastle . . . .			
Round-House . . . .			
Other closed-in spaces, if any, as follows . .			
Gross Tonnage .		Cubic metres.	
Deduction as <i>per contra</i> .			
Registered Tonnage .			TOTAL .

I, the undersigned \_\_\_\_\_  
 having surveyed the above-named Ship, hereby certify that the above particulars are true  
 Date at \_\_\_\_\_

this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_ 18 \_\_\_\_\_.

Surveyor."

ACT No. IX of 1891.<sup>1</sup>

[15th March, 1891.]

An Act to amend the <sup>2</sup>Indian Merchandise Marks Act, 1889,  
 and the <sup>3</sup>Sea Customs Act, 1878.

WHEREAS it is expedient to amend the <sup>2</sup>Indian Merchandise Marks Act, 1889, and the <sup>3</sup>Sea Customs Act, 1878; It is hereby enacted as follows:—

Repeal of par

1. In section 1, sub-section (2), of the Indian Merchandise Marks Act,

IV of 1889.  
 VIII of 1878.  
 IV of 1889.

<sup>1</sup> Short title, "The Indian Merchandise Marks and Sea Customs Acts Amendment Act, 1891." See the Indian Short Titles Act, 1897 (XIV of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1891, Pt. V, p. 4; for Report of the Select Committee, see *ibid*, 1891, Pt. V, p. 29 and for Proceedings in Council, see *ibid*, 1891, Pt. VI, pp. 8, 28 and 39.

This Act is in force in Upper Burma (except the Shan States) as being part of the principal Acts, (1 of 1887) and 8 of 1878), declared in force there by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

<sup>2</sup> *Supra*.

<sup>3</sup> Genl. Acts, Vol. II.

1889, the words "sub ect to the provision of the last section of this Act " of section 1,  
are hereby repealed. Act IV, 1889.

IV of 1889.

2. Section 19 of the <sup>1</sup> Indian Merchandise Marks Act, 1889, and the words "*Transitory Provision*" prefixed to the section, are hereby repealed. Repeal of section 19, Act IV, 1889.

VIII of 1878.

IV of 1889.

3. In clause (e), sub-clause (ii), of section 18 of the <sup>2</sup> Sea Customs Act, 1878, as amended by section 10, sub-section (I) of the <sup>1</sup> Indian Merchandise Marks Act, 1889, for the words "that place and the country in which it is situated are" the words "the country in which that place is situated is," shall be substituted. Amendment of section 18 (e) (ii), Act VIII, 1878.

IV of 1889.

4. After section 18 of the <sup>1</sup> Indian Merchandise Marks Act, 1889, as amended by this Act, the following shall be added, namely :— Additions to Act IV, 1889.

VIII of 1878.

"19. For the purposes of section 12 of this Act, and clause (f) of section 18 of the <sup>2</sup> Sea Customs Act, 1878, as amended by this Act, the Governor General in Council may, by notification in the Gazette of India, declare what classes of goods are included in the expression 'piece goods, such as are ordinarily sold by length or by the piece.' Definition of piece-goods.

"20. (1) The Governor General in Council may make rules, for the purposes of this Act, to provide, with respect to any goods which purport or are alleged to be of uniform number, quantity, measure, gauge or weight, for the number of samples to be selected and tested and for the selection of the samples. Determination of character of goods by sampling.

"(2) With respect to any goods for the selection and testing of samples of which provision is not made in any rules for the time being in force under sub-section (1), the Court or officer of customs, as the case may be, having occasion to ascertain the number, quantity, measure, gauge or weight of the goods, shall, by order in writing, determine the number of samples to be selected and tested and the manner in which the samples are to be selected.

"(3) The average of the results of the testing in pursuance of rules under sub-section (1) or of an order under sub-section (2) shall be *prima facie* evidence of the number, quantity, measure, gauge or weight, as the case may be, of the goods.

"(4) If a person having any claim to, or in relation to, any goods of which samples have been selected and tested in pursuance of rules under sub-section (1) or of an order under sub-section (2) desires that any further samples of the goods be selected and tested, they shall, on his written application and on the payment in advance by him to the Court or officer of

<sup>1</sup> *Supra.*

<sup>2</sup> Genl. Acts, Vol. II.

customs as the case may be, of such sums for delaying the cost of the further selection and testing as the Court or officer may from time to time require, be selected and tested to such extent as may be permitted by rules to be made by the Governor General in Council in this behalf or as, in the case of goods with respect to which provision is not made in such rules, the Court or officer of customs may determine in the circumstances to be reasonable, the samples being selected in manner prescribed under sub-section (1), or in sub-section (2), as the case may be.

“(5) The average of the results of the testing referred to in sub-section (3) and of the further testing under sub-section (4) shall be conclusive proof of the number, quantity, measure, gauge or weight, as the case may be, of the goods.

“(6) Rules under this section shall be made after previous publication.

Information  
as to commis-  
sion of  
offences.

“21. An officer of the Government whose duty it is to take part in the enforcement of this Act shall not be compelled in any Court to say whence he got any information as to the commission of any offence against this Act.

Punishment  
of abetment  
in India of  
acts done  
out of India.

“22. If any person, being within British India, abets the commission, without British India, of any act which, if committed in British India, would under this Act, or under any section of that part of Chapter XVIII of the <sup>1</sup>Indian Penal Code which relates to trade, property and other marks, be an offence, he may be tried for such abetment in any place in British India in which he may be found, and be punished therefor with the punishment to which he would be liable if he had himself committed in that place the act which he abetted.”

XLV of 18

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<sup>1</sup> Genl. Acts, Vol. I.

ACT No. X OF 1891.<sup>1</sup>

[19th March, 1891.]

An Act to amend the <sup>2</sup>Indian Penal Code 3\* \* \*XLV of  
1860.

WHEREAS it is expedient to amend the <sup>2</sup>Indian Penal Code 3\* \* \*

It is hereby enacted as follows:—

<sup>2</sup> Indian Penal Code.XLV of  
1860.

1. In section 375 of the <sup>2</sup>Indian Penal Code, in the clause marked *Fifthly* and in the *Exception*, the word “ twelve ” shall be substituted for the word “ ten ”.

Amendment  
of section  
375, Act  
XLV, 1860.

\* \* \* \* \*

ACT No. XI OF 1891.<sup>5</sup>

[19th March, 1891.]

An Act to amend the Indian Factories Act, 1881.

XV of 1881.)

WHEREAS it is expedient to amend the <sup>6</sup>Indian Factories Act, 1881; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Factories Act, 1891; and

(2) It shall come into force on the first day of January, 1892.

Short title  
and com-  
mencement.

XV of 1881.

2. The words and figures “ and shall come into force on the first day of July, 1881,” in section 1 of the <sup>6</sup>Indian Factories Act, 1881, are hereby repealed.

Repeal of  
part of sec-  
tion 1, Act  
XV of 1881.

<sup>1</sup> Short title, “ The Indian Criminal Law Amendment Act, 1891.” See the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1891, Pt. V, p. 5; for Report of the Select Committee, see *ibid*, p. 55 and for Debates in Council, see *ibid*, Extraordinary, dated 12th January 1891, p. 3, and Pt. VI, pp. 6 and 39.

As being part of Act 45 of 1860 the Act is in force in Upper Burma (except the Shan States), see the Burma Laws Act, 1898 (13 of 1898), Bur. Code; it has been extended under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), to British Baluchistan, see Gazette of India, 1892, Pt. II, p. 367. It has also been declared in force in the Sonthal Parganas by s. 3 of the Sonthal Parganas Settlement Regulation (3 of 1872) as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), Ben. Code, Vol. I.

<sup>2</sup> Genl. Acts, Vol. I.

<sup>3</sup> The rest of the title and preamble relates to the Code of Criminal Procedure, 1882 (Act 10 of 1882), which was repealed by the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

<sup>4</sup> The rest of the Act, ss. 2 and 3, was repealed by the Code of Criminal Procedure, 1898 (Act 5 of 1898).

<sup>5</sup> For Statement of Objects and Reasons, see Gazette of India, 1890, Pt. V, p. 6; for Report of the Select Committee, see *ibid*, 1891, p. 43 and for Proceedings in Council, see *ibid*, 1890, Pt. VI, pp. 10 and 17, and *ibid*, 1891, Pt. VI, p. 86.

<sup>6</sup> Genl. Acts, Vol. III.

Amendment  
of definition  
of "factory"  
in section 2,  
Act XV,  
1881.

3. For clause (b) in section 2 of the said Act, in the definition of the word "factory," the following shall be substituted, namely :—

" (b) wherein, subject to the provisions of section 20, not less than fifty persons are on any day simultaneously employed in any manual labour in, or incidental to, any such process ; and "

Amendment  
of definition  
of "em-  
ployed"  
in section 2,  
Act XV,  
1881.

4. (1) For the word "child" in the same section of the said Act, in the definition of the word "employed," the word "person" shall be substituted.

(2) In the same section of the said Act, in the definition of the word "employed," the word "either" is hereby repealed.

Amendment  
of sections 2,  
4, 5 and 16,  
Act XV, 1881.

5. For the word "twelve" in sections 2, 4, 5 and 16 of the said Act, the word "fourteen" shall be substituted.

Amendment  
of section 3,  
Act XV,  
1881.

6. (1) In the first paragraph of section 3 of the said Act, after the word "appoint" the word "by name or by office" shall be inserted.

(2) For the second paragraph of the same section of the said Act, the following shall be substituted, namely :—

"The District Magistrate shall, in virtue of his office, be an Inspector of all factories, if any, in his district."

Amendment  
of section 4,  
Act XV,  
1881.

7. In clause (b) of section 4 of the said Act, for the word "provisions" the word "purposes" shall be substituted.

Amendment  
of section 5,  
Act XV,  
1881.

8. In section 5 of the Act, before the word "examine" the words "and on payment by such person of such fee, if any, as may from time to time be prescribed by the Governor General in Council by notification in the Gazette of India" shall be inserted.

Amendment  
of sections 4,  
5 and 16, Act  
XV, 1881.

9. For the word "seven" in sections 4, 5 and 16 of the said Act the word "nine" shall be substituted.

Substitution  
of new sec-  
tions for sec-  
tions 6 to 11,  
Act XV, 1881.

10. For sections 6 to 11, both inclusive, of the said Act, and for the heading "*Children*" prefixed to the said section 6, the following shall be substituted, namely :—

#### " *All Operatives.*

Limited  
stoppage of  
work daily  
in certain  
circum-  
stances.

" 5A. (1) In every factory, except a factory in which a system of employment in shifts or sets approved by the local Inspector is in force, there shall between noon and two o'clock in the afternoon be a stoppage of work for a full half-hour :

(2) Provided that nothing in this section shall apply to any factory of a

class to which the Governor-General in Council has, by notification in the Gazette of India, declared this section not to apply.

“ 5B. (1) No person shall be employed in any factory on a Sunday :

Holidays.

(2) Provided as follows :—

- (a) any manager, foreman, mechanic, artisan or labourer may be employed in a factory on a Sunday in examining or repairing or in supervising or aiding in the examination or repair of, any machinery or other thing whatsoever necessary for the carrying on of the work performed in the factory ;
- (b) any person may be employed in a factory on a Sunday if he has had or will have a holiday for a whole day on one of the three days immediately preceding or succeeding the Sunday ;
- (c) the Local Government may from time to time, by notification in the official Gazette,<sup>1</sup> declare sub-section (1) of this section not to apply to any factory or class of factories (the factory or class being described in the notification) in which the work performed—
  - (i) necessitates continuous production for technical reasons, or
  - (ii) supplies the public with articles of prime necessity which must be made every day, or
  - (iii) by its nature cannot be carried on except at stated seasons or at times dependent on the irregular action of natural forces ; and
- (d) the Governor General in Council may from time to time, by notification in the Gazette of India, declare sub-section (1) of this section not to apply to factories of any class described in the notification.

#### “ Women.

“ 6. (1) No woman shall be employed before five o'clock in the morning or after eight o'clock in the evening in any factory in which a system of employment in shifts or sets approved by the local Inspector is not in force.

Employment of women.

(2) No woman shall be actually employed in any factory in any one day for more than eleven hours.

(3) Every woman shall be allowed an interval or intervals of rests amounting in the aggregate to at least an hour-and-a-half in the day when she is actually employed for eleven hours and to a proportionately less time when she is actually employed for less than eleven hours.

<sup>1</sup> See Genl. Acts, Vol. III.



(4) The Governor General in Council may from time to time, by notification in the Gazette of India, declare all or any of the foregoing sub-sections of this section not to apply to factories of any class described in the notification or to women employed in any process so described.

*" Children.*

Employment  
of children.

" 7. (1) No child shall be employed in any factory if he is under the age of nine years.

(2) No child shall be employed in any factory before five o'clock in the morning or after eight o'clock in the evening.

(3) No child shall be actually employed in any factory for more than seven hours in any one day.

(4) Every child who is actually employed in any factory for six hours in any one day shall be allowed an interval or intervals of rest amounting in the aggregate to at least half-an-hour.

Prohibition  
of employ-  
ment of child  
in certain  
dangerous  
work.

" 8. No occupier of a factory shall allow any child to clean any part of the mill-gearing or machinery of such factory while the same is in motion, or to work between the fixed and traversing parts of any self-acting machine while such machine is in motion by the action of the steam-engine, water-wheel or other mechanical power, as the case may be.

Register of  
children in a  
factory.

" 9. The Local Government may <sup>1</sup> direct any occupier of a factory to keep in such form and with such particulars as such Government may from time to time prescribe, registers of the children (if any) employed in such factory, and of their respective employments.

*" Women and Children.*

Provisions  
supplement-  
ary to sections  
6 and 7.

" 10. (1) The occupier shall set up and maintain, in some conspicuous place in the factory, a printed or written notice, in English and the languages of the district in which the factory is situated, showing the times at which such intervals as are required by section 6, sub-section (3), and section 7, sub-section (4), to be allowed to women and children, respectively, shall be allowed and the length of each interval.

(2) A woman or child shall not be deemed to be actually employed within the meaning of section 6 or section 7 during any such interval as aforesaid.

Prohibition  
of employ-  
ment of  
woman or  
child in  
two factories  
on same day.

" 11. No occupier of a factory shall employ therein on any day any woman or child who has to his knowledge already been employed on the same day in any other factory."

<sup>1</sup> For notifications issued under this provision, see Genl. Acts, Vol. III.

11. In clause (a) of section 12 of the said Act the word "or", where it first occurs, is hereby repealed. Amendment of section 12, Act XV, 1881.

12. In section 13 of the said Act, after the word "hours" the word "next" shall be inserted, and for the words "such accident" the words "the accident" shall be substituted. Amendment of section 13, Act XV, 1881.

13. (1) In section 14 of the said Act, before the words "the place" the words "and of" shall be inserted. Amendment of section 14, Act XV, 1881.

(2) The words "(if any)" in the same section of the said Act are hereby repealed.

14. For section 15 of the said Act the following shall be substituted, namely :— Substitution of new section for section 15, Act XV, 1881.

"15. (1) Any person who, in breach of this Act or of any order or rule made thereunder,— Penalties.

(a) employs any person in any factory ;

(b) allows any child to perform the work forbidden by, or to work in contravention of, section 18 ;

(c) neglects to keep a register in manner prescribed under section 9 ;

(d) neglects to set up or maintain the notice required by section 10, sub-section (1) ;

<sup>1</sup>(e) neglects to fence any machinery or mill-gearing in any factory ;

(f) neglects to maintain a supply of water for the use of persons employed in any factory ;

(g) neglects to ventilate any factory or to keep any factory in a cleanly state and free from effluvia arising from any drain, privy or other nuisance ;

(h) suffers any factory to be so overcrowded, while work is carried on therein, as to be injurious to the health of the persons employed therein ; or

(i) neglects to send any notice or furnish any return,

shall be punished with fine which may extend to two hundred rupees :

Provided that—

(i) no prosecution under this sub-section shall be instituted except by, or with the previous sanction of, the local Inspector ; and

(ii) no person shall be liable under this sub-section to more than one

<sup>1</sup> Cf. the Factories Act, 1844 (7 & 8 Vict., c. 15), s. 43 ; and the Factories Act, 1856 (19 & 20 Vict., c. 38), s. 6. Both Acts are repealed by the Factories and Workshops Act, 1878 (41 & 42 Vict., c. 16).

penalty for any one description of offence committed on the same day except where two or more persons are employed contrary to the provisions of this Act, in which case one penalty may be imposed in respect of each person so employed.

(2) Any person who corruptly uses or attempts to use, as a certificate granted to himself under section 5, a certificate granted to another person under that section, or who, having procured a certificate under the said section corruptly allows it to be used, or an attempt to use it to be made, by another person, shall be punished with fine which may extend to twenty rupees."

Amendment  
of section 17,  
Act XV,  
1881.

15. For section 17 of the said Act the following shall be substituted, namely :—

Occupier  
primarily  
liable for  
breaches of  
Act or orders  
or rules  
thereunder.

"17. Every occupier of a factory shall be deemed primarily liable for any breach therein of this Act or of any order or rule made thereunder but he may discharge himself from such liability by proof that such breach was committed by some other person without his knowledge or consent, and in that case the person committing such breach shall be liable therefor."

Amendment  
of section 18,  
Act XV,  
1881.

16. (1) For section 18 of the said Act the following shall be substituted, namely :—

Power to  
make rules.

"18. (1) Subject to the control of the Governor General in Council, the Local Government may from time to time make <sup>1</sup> rules consistent with this Act to provide for—

- (a) the fencing of machinery and mill-gearing in factories ;
- (b) the water-supply to be maintained for the use of persons employed in factories ;
- (c) the ventilation of factories and their cleanliness (including lime-washing, painting, varnishing and washing) and freedom from effluvia arising from any drain, privy or other nuisance ;
- (d) the prevention of such overcrowding of factories, while work is carried on therein, as is likely to be injurious to the health of the persons employed therein ;
- (e) the inspection of factories ;
- (f) the manner in which appeals under this Act are to be presented and heard ; and
- (g) otherwise carrying out the purposes of this Act.

(2) The Governor General in Council may from time to time make rules

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<sup>1</sup> For rules issued in accordance with this provision, see Genl. Acts, Vol. III.

requiring occupiers of factories to furnish such returns, occasional or periodical, as may be necessary for the effectual carrying out of this Act.

(3) Such rules shall be published in the local official Gazette, or the Gazette of India, as the case may be, and shall thereupon have the force of law.

(4) Before making rules under clause (b), clause (c) or clause (d) of sub-section (1) of this section the Local Government, and before making rules under sub-section (2) of this section the Governor General in Council, shall publish in such manner as may in its or his opinion be sufficient for giving information to persons interested a draft of the proposed rules, with a notice specifying a date (not less remote than two months from the publication of the notice) at or after which the draft will be taken into consideration, and shall consider any objection or suggestion which may be received from any person with respect to the draft before the date so specified."

17. In section 19 of the said Act, the word "such," where it occurs before the word "factory," is hereby repealed.

Amendment  
of section 19,  
Act XV,  
1881.

18. To the said Act the following shall be added, namely :—

Addition of  
a section to  
Act XV,  
1881.

"20. (1) Notwithstanding any thing in clause (b) of the definition of the word "factory" in section 2, the Local Government may from time to time, by notification in the official Gazette, declare any premises or premises of any class, which fulfil the other conditions of the said definition, to be a factory for all the purposes of this Act, or for such of those purposes as may be specified in the notification, if the number of persons simultaneously employed in the premises on any day in any manual labour in, or incidental to, any such process as is referred to in the said clause (b) is less than fifty and not less than twenty.

Power to  
Local Gov-  
ernment to  
extend defini-  
tion of  
"factory."

(2) The Local Government may, by such notification, fix any number below fifty and not below twenty as the number of persons whose simultaneous employment as aforesaid is to be held to subject premises, as a factory, to all or any of the provisions of this Act and of the orders and rules made thereunder."

19. A reference in any enactment or document to the Indian <sup>1</sup> Factories Act, 1881, shall be read as a reference to that Act as amended by this Act.

References to  
Act XV of  
1881 to be  
read as  
references to  
that Act as  
amended by  
this Act.

<sup>1</sup> Genl. Acts, Vol. III.

ACT No. XII OF 1891.<sup>1</sup>

[21st March, 1891.]

An Act <sup>2</sup> \* \* \* to amend certain <sup>3</sup> Enactments.

\* \* \* \* \*

\* <sup>3</sup> WHEREAS it is <sup>3</sup> expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act;

It is hereby enacted as follows:—

Title, extent  
and com-  
mencement.

1. (1) This Act may be called the \* \* \* Amending Act, 1891.

(2) Save in so far as it applies expressly or by necessary implication to particular territory only, it extends to the whole of British India, inclusive of Upper Burma and British Baluchistan; and

(3) It shall come into force at once:—

Enactments  
in schedule  
amended.

2. (1) *Enactments repealed* [Rep. Act 1 of 1903].

(2) The enactments specified in the second schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof; but nothing in this sub-section shall affect any Act passed after this Act comes into force by the Governor of Madras in Council, the Governor of Bombay in Council, the Lieutenant-Governor of Bengal in Council or the Lieutenant-Governor of the <sup>5</sup> North-Western Provinces and Oudh in Council.

(3) The modifications hereby made in the <sup>6</sup> *Foreign Jurisdiction and Extradition Act, 1879, section 6, and the* <sup>7</sup> *Cantonments Act, 1889, section 19, shall have effect as from the commencement of those Acts respectively.*

XXI of 18  
XIII of  
1899.

3. [Savings] Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

## THE FIRST SCHEDULE.

## ENACTMENTS REPEALED.

(Rep. Act 1 of 1903.)

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1890, Pt. V, p. 214; for Report of the Select Committee, see *ibid.*, 1891, p. 65 and for Proceedings in Council, see *ibid.*, 1890, Pt. VI, p. 142, and *ibid.*, 1891, p. 111.

The Act has been declared in force in the Santhal Parganas, by s. 3 of the Santhal Parganas Settlement Regulation (3 of 1872) as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (3 of 1899), Ben. Code, Vol. I.

The Act so far as it may be applicable has been extended to the Shan States, by the Shan States Laws and Criminal Justice Order, 1895,—see Bur. Code.

<sup>2</sup> In the title the words “to repeal certain Obsolete Enactments and” and the word “other” were repealed by the Repealing and Amending Act, 1903 (1 of 1903), s. 4, 3rd Schedule.

<sup>3</sup> The portion of the Preamble relating to repeals and the words “and” and “also” were repealed by the Repealing and Amending Act, 1903 (1 of 1903), s. 4.

<sup>4</sup> The words “Repealing and” were repealed by the Repealing and Amending Act, 1903, 1 (of 1903), s. 4.

<sup>5</sup> Read now United Provinces of Agra and Oudh—see s. 2 of the United Provinces (Designation) Act, 1902 (7 of 1902), Genl. Acts, Vol. V.

<sup>6</sup> Act 21 of 1879 is now rep. by the Extradition Act, 1903 (15 of 1903), Genl. Acts, Vol. V.

<sup>7</sup> *Supra.*

## THE SECOND SCHEDULE.

## ENACTMENTS AMENDED.

A description or citation of a portion of an Act or Regulation includes the words, section or other part mentioned or referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

*Part I.—Acts of the Governor General in Council.*

1	2	3	4
Year.	[No.	Subject or title.	Amendment.
1835	XIX	Assistant to Agent for Sardars, Dekkhan.	<i>Add the following section :—</i>  2. The provisions of the Code of Civil Procedure relating to appeals to a High Court from decrees passed in appeal shall apply, so far as may be, to appeals to the Governor in Council under this Act.
1839	VII	Tahsildars, Madras.	In section 6, <i>for</i> the three last preceding sections <i>read</i> sections 3 and 5.
1846	I	Pleaders	In section 7, <i>for</i> the sections of Regulations <i>read</i> the section of the Regulation.
1850	XIX	Binding Apprentices	In section 11, <i>for</i> section VIII <i>read</i> section 9. In section 20, <i>for</i> and, <i>where</i> the word <i>occurs before</i> administrators, <i>read</i> or.
1851	XII	Land-Revenue, Madras Town.	In the preamble and section 1, <i>for</i> within the limits of the Town of Madras as defined in Section XII, Regulation II of 1802 of the Madras Code <i>read</i> within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras.
*1	*	* * *	* * *
1856	XX	Chaukidars	In section 38 (as amended by Act XXII of 1871, section 3), <i>for</i> Commissioners of Circuit <i>read</i> Commissioner.
1857	XV	Forfeiture of property	In section 2, <i>for</i> by this Act, or Act XI of 1857, or Act XIV of 1857 or Act XVI of 1857, <i>read</i> by the Indian Penal Code, section 121 or section 122, or the Indian Articles of War, Article 24.

The entry relating to Act 8 of 1856 (Control of Gaols), was repealed by the Prisons Act, 1894 (9 of 1894)—see s. 2 and Schedule, *infra*.

THE SECOND SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1858	XXXVII	Nawab of the Carnatic	<p><i>For the list of names in Schedule A, read the following :—</i></p> <ol style="list-style-type: none"> <li>1. Her Highness Nawab Khair-un-Nissa Begam.</li> <li>2. Nawab Ahmad-un-Nissa Begam.</li> <li>3. Nawab Qadiria Begam.</li> <li>4. Rahim-un-Nissa Begam.</li> <li>5. Ammak-ul-Ali Aliyat-un-Nissa Begam.</li> </ol>
1859	1	Merchant Seamen	<p>In section 62, for Act XX of 1841 (<i>for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons</i>) read the Succession Certificate Act, 1889.</p> <p>In section 115. for Sections XXI and XXII of this Act read Chapter IV of the Indian Merchant Shipping Act, 1883, and section 22 of this Act.</p>
1860	XLV	Indian Penal Code	In section 307, Illustration (c), after of insert the first paragraph of.
1863	XX	Religious Endowments.	In section 3, for section I read the preamble to this Act.
1864	III	Foreigners	In section 24, for the words and figures from according to the end, read be recovered in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.
1865	X	Indian Succession Act, 1865.	In section 242, after is insert or are.
1867	III	Gambling	<p>In the preamble, after Fort William insert and.</p> <p>In section 2, for Sections 13, 17 and 18 read Sections 13 and 17.</p>

<sup>1</sup> The entry relating to the Boundary marks (Madras) Act, 1860 (28 of 1860), was repealed by the Coorg Land and Revenue Regulation, 1899 (1 of 1899), Coorg Code.

THE SECOND SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1867	XXIII	Murderous Outrages, Punjab.	In section 10, <i>for</i> the Punjab Chief Court Act, 1866, <i>read</i> in any other enactment for the time being in force.
"	XXV	Printing Presses and Books.	In section 3, <i>before</i> of the publisher <i>insert</i> the name.
1868	V	Commissioner in Sindh .	In the schedule, <i>for</i> Act VII of 1854 (for the apprehension within the territories under the Government of the East India Company of persons charged with the commission of heinous offences beyond the limits of the said territories, and for delivering them up to justice, and to provide for the execution of warrants in places out of the jurisdiction of the authorities issuing them) <i>read</i> The Foreign Jurisdiction and Extradition Act, 1879, <i>and for</i> A. t VII of 1865 (to give effect to rules for the management and preservation of Government forests) <i>read</i> The Indian Forests Act, 1878.
1869	V	Indian Articles of War .	1 * * *
"	XX	Indian Volunteers Act, 1869.	In the heading to Article 170, <i>for</i> "committed" <i>read</i> "of which any person is accused."
1870	VII	Court-fees Act, 1870 .	In section 22, <i>for the words from</i> if for offences committed outside <i>to the end read</i> in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.  <i>For section 34 read the following :—</i>  34. (1) The Local Government may from time to time make rules for regulating the sale of stamps to be used under this Act, the persons by whom alone such sale is to be conducted, and the duties and remuneration of such persons.  (2) All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

<sup>1</sup> This entry is repealed, so far as Act 12 of 1891 affects British Baluchistan and the North-West Frontier Province, by s. 16 of the Frontier Murderous Outrages Regulation, 1901 (4 of 1901),—*see* Gazette of India, 1901, Pt. I, p. 863.

<sup>2</sup> The entry relating to Part I, cl. (c) in col. 4 was repealed by the Repealing and Amending Act, 1903 (1 of 1903), s. 4.



THE SECOND SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1870	VII— <i>contd.</i>	Court-fees Act, 1870	(3) Any person appointed who sells stamps who disobeys any rule made under this section, and any person not so appointed who sells or offers for sale any stamp, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.  In Schedule I, Article 2, for Act No. XIV of 1859 (to provide for the limitation of suits), section 15, read the Specific Relief Act, 1877, section 9.  In Schedule II, Article 4, for Bombay Act No. V of 1864 (to give Mamlatdars' Courts jurisdiction in certain cases to maintain existing possession or to restore possession to any party dispossessed otherwise than by course of law) read the Mamlatdars' Courts Act, 1876.
"	XXIV	Oudh Talukdars' Relief Act.	In section 12, for the words section three in the second place in which they occur, read section 4.
1*	"	"	"
"	XXVII	Amending the Indian Penal Code.	In section 13, for the said sections 124A and 225A read sections 124A, 225A and 225B.
2*	"	"	"
1872	IV	Punjab Laws Act, 1872	In section 50 (as amended by Act XV of 1875, section 3), for sections forty-three to forty-nine read section 43 to 48.
"	V	Jurisdiction over Sindh	In section 2 (added by Act XX of 1872), for the Administrator General's Act, 1867, read the Administrator General's Act, 1874.
"	IX	Indian Contract Act, 1872	In section 25, clause (1), for assurances read documents.  In section 43, first paragraph, for one read one or more.

<sup>1</sup> The entries relating to the Prisons Act, 1870 (26 of 1870), were repealed by the Prisons Act, 1894 (9 of 1894), *infra*.

<sup>2</sup> The entry relating to the Prisoners Act, 1871 (5 of 1871), was repealed by the Prisoners Act, 1900 (3 of 1900), Genl. Acts, Vol. V.

The entry in the fourth column relating to s. 12 of Act 4 of 1872 was rep. by the Punj. Pre-emption Act, 1905 (2 of 1905).

THE SECOND SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1872	IX— <i>contd.</i>	Indian Contract Act, 1872	In section 63, Illustration (e) <i>for</i> compensation <i>read</i> composition.
"	XV	Indian Christian Marriage Act, 1872.	In section 4, <i>after</i> is <i>insert</i> or are.  In Schedule III, <i>for</i> (See section 28) <i>read</i> (See sections 28 and 31).
1873	VIII	Northern India Canal and Drainage Act, 1873.	In section 75, clause (3), <i>after</i> whom <i>insert</i> and.
1874	II	Administrator General's Act, 1874.	In section 15, <i>after</i> hereafter <i>insert</i> to.
"	IX	European Vagrancy Act, 1874.	In section 26, <i>for the words from</i> if for offences committed outside <i>to</i> time being <i>read</i> in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.
"	XIV	Scheduled Districts Act, 1874.	<i>After</i> section 5 <i>insert the following section:—</i> 5A. In declaring an enactment in force in Modification of en- a scheduled district acements in their ap- or part thereof under plication to scheduled section 3 of this Act, districts. or in extending an enactment to a scheduled district or part thereof under section 5 of this Act, the Local Government, with the previous sanction of the Governor General in Council, may declare the operation of the enactment to be subject to such restrictions and modifications as that Government thinks fit.  In the first schedule, Part I, No. II, <i>for</i> (7) The Konda Mutta of Belgam <i>read</i> (7) The Konda Mutta of Merangi.  In the first schedule, Part III, No. I, <i>for</i> Divisions <i>read</i> Districts.
"	XV	Laws Local Extent Act, 1874.	In the second schedule, Part (a), in the entry relating to Madras Regulation II of 1806, <i>for</i> (parts of ss. 1 and 7) <i>read</i> (section 7, clause second).  In the sixth schedule, Part I, No. II, <i>for</i> (7) The Konda Mutta of Belgam <i>read</i> (7) The Konda Mutta of Merangi.  In the sixth schedule, Part III, No. I, <i>for</i> Divisions <i>read</i> Districts.

THE SECOND SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1876	X	Bombay Revenue Jurisdiction Act, 1876.	In section I, clause (b), for Act XV of 1871 read Act XXI of 1881.
"	XIII	Indian Merchant Seamen's Act, 1876.	In section 8, last paragraph, for to imprisonment read with imprisonment.
"	*	*	* * *
"	XVIII	Oudh Laws Act, 1876	In section 39, clause (f), for Oudh Revenue Act read Oudh Land-revenue Act, 1876.
"	*	*	* * *
1878	I	Opium Act, 1878	In section 24, for Deputy Collector read Deputy Commissioner.
"	VII	Indian Forest Act, 1878	In section 41, clause (e), for dépôt read dépôts.
"	VIII	Sea-customs Act, 1878	In section 2, for the first schedule read Part I of the schedule.
			In the schedule appended to section 167—
			in the first column of the entry numbered 3, for No. 2 read No. 4, and for landing or shipment read shipment and landing; and
			in the second column of the entry numbered 59, for 141 read 142.
	XVII	Northern India Ferries Act, 1878.	In section 17, clause (c), for first read in the first instance, and for the words and figures from and then to the end of the clause read and shall then, at the discretion of the Local Government—
			(i) be placed at the disposal of any District Board or District Boards established under the Punjab District Boards Act, 1883, or
			(ii) be applied to any of the purposes specified in the second clause of section 5 of the Central Provinces Additional Rates Act, 1878,
			as the case may be; and.

<sup>1</sup> The entry relating to the Oudh Land-revenue Act, 1876 (17 of 1876), was repealed by the Repealing and Amending Act, 1903 (1 of 1903), s. 4.

<sup>2</sup> The entry relating to Act 3 of 1877 was rep. by the Registration Act, 1908 (16 of 1908), Genl. Acts, Vol. VI.

THE SECOND SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1*	*	* *	* * *
1879	XVI	Transport of Salt Act, 1879.	In section 3, clause (a), for section twenty-eight or section thirty-one of the Act of the Governor of Bombay in Council No. VII of 1873, or by a rawana granted under Madras Regulation I of 1805, section eleven, clause third, read Chapter V of the Madras Salt Act, 1889, or Chapter V of the Bombay Salt Act, 1890, or the corresponding law for the time being in force in the territories administered by the Governor of Fort St. George in Council or the Governor of Bombay in Council, as the case may be.
2 "	XXI	Foreign Jurisdiction and Extradition Act, 1879.	In section 6, for the first thirty-three words read <i>The Governor-General in Council may appoint any European British subject, either by name or by virtue of his office, to be a Justice of the Peace in or for any such country or place.</i>
1880	VII	Indian Merchant Shipping Act, 1880.	In section 68, for purposes read purpose.
1881	V	Probate and Administration Act, 1881.	In section 59, after is insert or are.  In section 83, for proceeding read proceedings.
3 *	*	* *	* * *
1881	XVIII	Central Provinces Land-revenue Act, 1881.	In section 33, for the first five grades read the last five classes; for the Central Provinces Courts Act, 1865, read the Central Provinces Civil Courts Act, 1885; and for sections twelve, nineteen and twenty read section 7.  In section 34, for the Central Provinces Courts Act, 1865, sections twelve, nineteen and twenty read the Central Provinces Civil Courts Act 1885 section 16 and section 17, sub-section (1), and the powers of a Court of a Commissioner described in the same Act, section 15, sub-section (1).

\* The entries relating to the Stamp Act, 1879 (1 of 1879), were repealed by the Indian Stamp Act, 1899 (2 of 1899) Genl. Acts, Vol. V.

\* Act 21 of 1879 was repealed by the Extradition Act, 1903 (15 of 1903), Genl. Acts, Vol. V.

\* Repealed by the Repealing and Amending Act, 1903 (1 of 1903), s. 4.

THE SECOND SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1881	VI — <i>contd.</i>	Central Provinces Land Revenue Act, 1880.	In section 35, for the first four grades read the last four classes.
1*	*	*      *	*      *      *
2*	*	*      *	*      *      *
1882	V	Indian Easements Act, 1882.	In section 14, for right read a right.
	VI	Indian Companies Act, 1882.	In section 66, after the word cheque where it first occurs, insert or.  In section 88, after dates insert of.  In section 127, for prove read proof.  In section 144, clause (f), after the word bill in the last place in which it occurs insert hundi.
3*	*	*      *	*      *      *
4*	*	*      *	*      *      *
1883	V	Indian Merchant Shipping Act, 1883.	In section 6, sub-section (3), for to simple imprisonment read with simple imprisonment.
	XIV	North-Western Provinces and Oudh Local Boards Act, 1883.	In sections 36 and 37, for Government Civil Pension and Leave Codes, wherever those words occur, read Civil Service Regulations.
"	XV	North-Western Provinces and Oudh Municipalities Act, 1883.	In sections 37 and 38, for Government Civil Pension and Leave Codes read Civil Service Regulations.
"	XX	Punjab District Boards Act, 1883.	In sections 28 and 29, for Government Civil Pension and Leave Codes, wherever those words occur, read Civil Service Regulations.
1884	VI	Inland Steam-vessels Act, 1884.	In section 56, for to simple imprisonment read with simple imprisonment.

<sup>1</sup> The entry relating to the Lower Burma Forest Act, 1881 (19 of 1881), was repealed by the Burma Laws Act, 1893 (13 of 1893), Bur. Code. See also Burma Forest Act, 1902 (Bur. Act 4 of 1902).

<sup>2</sup> The entries relating to the Excise Act, 1881 (12 of 1881), were repealed by the Excise Act, 1896 (12 of 1896), Bur. Code, etc.

<sup>3</sup> The entry relating to the Code of Criminal Procedure, 1883 (Act 10 of 1882), was repealed by the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

<sup>4</sup> The entry relating to the Code of Civil Procedure (Act 14 of 1882) was repealed by the Code of Civil Procedure, 1908 (Act 5 of 1908), Genl. Acts, Vol. VI.

<sup>5</sup> The Act has since been repealed by the North-Western Provinces and Oudh Municipalities Act, 1900 (U. P. Act 1 of 1900), U. P. Code, Vol. II.

THE SECOND SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—concl'd.*

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1*	*	* *	* * *
2*	*	* *	* * *
1886	XXIII	Dekkhan Agriculturists' Relief Act, 1886.	In section 10, sub-section (3) <i>for</i> the same section <i>read</i> section 58.
1887	XVI	Punjab Tenancy Act, 1887.	In section 45, sub-section (2), <i>before</i> year <i>insert</i> agricultural.
1888	III	Police Act, 1888	In section 2, sub-section (1), <i>for</i> the Bombay District Police Act, 1867, <i>read</i> or the corresponding law for the time being in force in the territories administered by the Governor of Bombay in Council.
3*	*	* *	* * *
1889	V	Coroner of Madras	In section 4, sub-section (2), <i>for</i> that Code <i>read</i> the 4 Code of Criminal Procedure, 1882.
	*	* *	* *
1889	XIII	Cantonments Act, 1889	In section 19, <i>for</i> shall not be imposed under section 17 of this Act in the cantonment, <i>read</i> shall not be leviable in the cantonment in pursuance of a notification under section 17 of this Act.
6	*	* *	* * *
1890	III	Amending the Inland Steam-vessels Act, 1884, and the Indian Steamships Act, 1884.	In section 4, sub-section (2), <i>for</i> the same section <i>read</i> section 11 of the said Act.  In section 17, sub-section (2) <i>for</i> the same section <i>read</i> section 13 of the said Act.
1891	VII	Amending Act X of 1841.	In section 6, sub-section (2), <i>for</i> the same section <i>read</i> section 17 of the said Act.

<sup>1</sup> The entry relating to the Lower Burma Municipal Act, 1884 (17 of 1884), was repealed by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

<sup>2</sup> The entry relating to the Petroleum Act, 1886 (12 of 1886), was repealed by the Petroleum Act, 1899 (8 of 1899), Genl. Acts, Vol. V.

<sup>3</sup> The entry relating to Act 7 of 1888 was repealed by the Code of Civil Procedure, 1908 (Act 5 of 1908), Genl. Acts, Vol. VI.

<sup>4</sup> Now repealed by the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

<sup>5</sup> The entry relating to the Lower Burma Courts Act, 1889 (11 of 1889), was repealed by the Lower Burma Courts Act, 1900 (6 of 1900), s. 48 and Second Schedule.

<sup>6</sup> The entry relating to the Central Provinces Municipal Act, 1889 (18 of 1889), was repealed by the Central Provinces Municipal Act, 1903 (16 of 1903), Central Provinces Code.

THE SECOND SCHEDULE—*contd.*  
*Part II.—Regulations of the Bengal Code.*

1	2	3	4
Year.	No.	Subject.	Amendment.
1793	XI	Inheritance . . .	In section 3, <i>for that section read section 2, and for Regulation XXV, 1793, read the Estates' Partition Act, 1876.</i>
1817	XII	Patwaris . . .	In section 31, <i>for Boards are read Board is.</i>  <i>For section 35 read the following :—</i> 35. (1) Any person aggrieved by a decision or order of a Collector under section 20 of this Regulation may appeal within six months from the date thereof to the Commissioner of the Division.  (2) The Commissioner may reverse or alter any such decision or order in appeal.
	XX	Police . . .	In the heading prefixed to section 29, <i>for Commercial, Salt and Opium Departments read Opium Department, and for those Departments read that Department.</i>  In section 29, clause <i>Twelfth</i> , <i>for Section XXXI, Regulation XIII, 1816, read Act XIII of 1857, section 21.</i>
1818	III	State Prisoners . . .	In section 9, <i>after situated insert and.</i>
1819	II	Resumption of revenue-free lands.	In section 6, clause <i>First</i> , <i>for the words from in the Persian and Bengal languages to Conqueror Provinces read in the vernacular of the district.</i>  In section 12, <i>after belong insert he.</i>  In section 26, clause <i>Second</i> , <i>for a appeal read an appeal.</i>
1822	III	Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal.	(a) In section 5, clause <i>First</i> , <i>for the Governor General in Council, by an order in Council, and for the Governor General in Council similarly. (b) in section 5 clause First, first proviso, clause Second and clause Third, for Government, and (c) in section 5, clauses Fourth and Fifth, for the Governor General in Council—read the Lieutenant-Governor.</i>

THE SECOND SCHEDULE—*concl'd.**Part II.—Regulations of the Bengal Code—concl'd.*

1	2	3	4
Year.	No.	Subject.	Amendment.
1822	III — <i>cont'd.</i>	Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal.	In section 5, clause <i>First</i> , first proviso, <i>before</i> Collector <i>insert</i> Commissioner or.  In section 5, clause <i>First</i> , third proviso, <i>for</i> formally confirmed <i>read</i> made or confirmed in accordance with rules sanctioned.
1823	VI	Indigo-contracts	In section 6, <i>for</i> a investigation <i>read</i> an investigation.
1825	XIII	Settlement of resumed lakhiaj land.	In section 4, <i>for</i> the Regulations <i>read</i> the Regulation.  In section 5, <i>for</i> Regulations <i>read</i> Regulation.



ACT No. XIII OF 1891. <sup>1</sup>

[21st March, 1891.]

## An Act to amend the Inland Steam-vessels Act, 1884.

WHEREAS it is expedient to amend the <sup>2</sup> Inland Steam-vessels Act, 1884 ; IV of 1884.  
It is hereby enacted as follows :—

1. For Chapter III of the said Act the following shall be substituted, namely :—

## “CHAPTER III.

“MASTERS (INCLUDING SERANGS), AND ENGINEERS (INCLUDING ENGINE-DRIVERS), OF INLAND STEAM-VESSELS.

Appointment  
of examiners.

“22. The Local Government may, from time to time, appoint<sup>3</sup> persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency as masters or serangs, or as engineers or engine-drivers, of inland steam-vessels.

Grant of  
masters' and  
serangs' certi-  
ficates of  
competency.

“23. (1) The Local Government shall grant to every person who is reported by the examiners to possess the necessary qualifications a certificate of competency to the effect that he is competent to act as a first-class master, second-class master or serang, as the case may be, of an inland steam-vessel.

“ (2) Every certificate granted under this section shall be in the prescribed form.

Grant of  
engineers'  
and engine-  
drivers' certi-  
ficates of  
competency.

“24. (1) The Local Government shall grant to every person who is reported by the examiners to possess the necessary qualifications a certificate of competency to the effect that he is competent to act as an engineer, first-class engine-driver or second-class engine-driver, as the case may be, of an inland steam-vessel.

“ (2) Every certificate granted under this section shall be in the prescribed form.

Power for  
Local Gov-  
ernment to  
require re-  
examination

“25. Before granting a certificate under either of the two last foregoing sections, the Local Government may, if it has reason to believe that the report of the examiners regarding any applicant has been unduly made, require

<sup>1</sup> Short title, “The Inland Steam-vessels Act (1884) Amendment Act, 1891.” See the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1891, Pt. V, p. 15; for Report of the Select Committee, see *ibid*, p. 113 and for Proceedings in Council, see *ibid*, Pt. VI, pp. 6, 13 and 112.

As being part of the Inland Steam-vessels Act, 1884 (6 of 1884), it is in force in Upper Burma (except the Shan States), see the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

<sup>2</sup> Genl. Acts, Vol. III.

<sup>3</sup> As to appointments made in exercise of the power conferred by this provision, see Genl. Acts, Vol. III.

a re-examination of the applicant or a further inquiry into his testimonials and character. or further inquiry.

"25A. (1) The Local Government may in its discretion grant without examination to any person who has served as a master, or as an engineer, of an inland steam-vessel before the first day of April, 1890, a certificate of service to the effect that he may act as a first-class master, second-class master or serang, or as an engineer, first-class engine-driver or second-class engine-driver, as the case may be, of an inland steam-vessel. Grant of certificates of service.

"(2) A certificate of service so granted shall have the same effect as a certificate of competency granted under this Act after examination.

"26. Every certificate of competency or service granted under this Act shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded in the prescribed manner. Certificates to be made in duplicate.

"27. Whenever a master or serang, or an engineer or engine-driver proves, to the satisfaction of the Local Government which granted his certificate, that he has, without fault on his part, lost or been deprived of it, a copy of the certificate to which, by the record kept as provided by law, he appears to be entitled shall be granted to him, and shall have all the effect of the original. Copy of certificate to be granted in certain cases.

"28. (1) An inland steam-vessel having engines of eighty nominal horsepower or upwards shall not proceed on any voyage unless she has—

(a) as her master a person possessing a first-class master's certificate granted under this Act or a master's certificate granted under <sup>1</sup>Act I of 1859 (*for the amendment of the law relating to Merchant Seamen*) or <sup>2</sup>the Merchant Shipping Acts, 1854 to 1889, or to which the provisions of any such Act have been made applicable under the <sup>3</sup>Merchant Shipping (Colonial) Act, 1869, and Nature of certificates necessary in case of different steam-vessels.

17 & 18 Vict.,  
c. 104, etc.

32 & 33 Vict.,  
c. 11.

VII of 1884.

(b) as her engineer a person possessing an engineer's certificate granted under this Act or the <sup>3</sup>Indian Steam-ships Act, 1884, or the <sup>3</sup>Merchant Shipping Acts, 1854 to 1889, or to which the provisions of any such Act have been made applicable under the <sup>3</sup>Merchant Shipping (Colonial) Act, 1869.

"(2) An inland steam-vessel having engines of thirty nominal horsepower or upwards but of less than eighty nominal horsepower shall not proceed on any voyage unless she has—

(a) as her master a person possessing a second-class master's certificate

<sup>1</sup> The Indian Merchant Shipping Act, 1859, Genl. Acts, Vol. I.

<sup>2</sup> See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), by which these Acts have been repealed, Coll. Stats. Ind., Vol. II.

<sup>3</sup> Genl. Acts, Vol III.

granted under this Act or a certificate of the higher grade of the nature referred in clause (a) of sub-section (1), and

- (b) as her engineer a person possessing a first-class engine-driver's certificate granted under this Act or an engine driver's certificate granted under the <sup>1</sup>Indian Steam-ships Act, 1884, <sup>VII of 1884.</sup> or a certificate of the higher grade of the nature referred to in clause (b) of sub-section (1):

Provided that a steam-vessel shall be deemed to have complied with this sub-section if she has as her master and engineer a person possessing both a second-class master's certificate and a first-class engine-driver's certificate granted under this Act, or, in substitution for either of such certificates, as the case may be, a master's certificate or an engineer's certificate of the higher grade of the nature referred to in sub-section (1).

" (3) An inland steam-vessel having engines of less than thirty nominal horse-power shall not proceed on any voyage unless she has—

- (a) as her master a person possessing a serang's certificate granted under this Act or a certificate of the higher grade of the nature referred to in clause (a) of sub-section (1) or sub-section (2), and
- (b) as her engineer a person possessing a second-class engine-driver's certificate granted under this Act or an engine-driver's certificate granted under the <sup>1</sup> Indian Steam-ships Act, 1884, or a <sup>VII of 1884.</sup> certificate of the higher grade of the nature referred to in clause (b) of sub-section (1) or sub-section (2):

Provided that a steam-vessel shall be deemed to have complied with this sub-section if she has as her master and engineer a person possessing both a serang's certificate and a second-class engine-driver's certificate granted under this Act, or, in substitution for either of such certificates, as the case may be, a master's certificate or an engineer's or engine-driver's certificate of the higher grade of the nature referred to in sub-section (1) or sub-section (2).

" (4) Notwithstanding anything in sub-section (1), sub-section (2) or sub-section (3), the Local Government may, by general or special order, direct that a person possessing a master's certificate granted under Act I of 1859 <sup>2</sup> (for the amendment of the law relating to Merchant Seamen) or the <sup>3</sup> Merchant Shipping Acts, 1854 to 1889, or to which the provisions of any such Act have been made applicable under the <sup>3</sup> Merchant Shipping (Colonial) Act, 1869 or <sup>17 & 18 Vict. c. 104, etc. 32 & 33 Vict., c. 11.</sup>

<sup>1</sup> Genl. Acts, Vol. III.

<sup>2</sup> The Indian Merchant Shipping Act, 1859, Genl. Acts, Vol. I.

<sup>3</sup> See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), by which these Acts have been repealed, Coll. Stat. Ind., Vol. II.

VII of 1884. 17 & 18 Vict., c. 104 & c. 32 & 33 Vict., c. 11. possessing an engineer's certificate granted under the <sup>1</sup> Indian Steam-ships Act, 1884, or the <sup>2</sup> Merchant Shipping Acts, 1854 to 1889, or to which the provisions of any such Act have been made applicable under the <sup>2</sup> Merchant Shipping (Colonial) Act, 1869, shall not act as master or engineer, as the case may be, of an inland steam-vessel unless he also possesses, in the case of a master, such a master's or serang's certificate granted under this Act as qualifies him under this section to act as master of the vessel, or, in the case of an engineer, such an engineer's or engine-driver's certificate granted under this Act as qualifies him under this section to act as engineer of the vessel:

" Provided that, for the purposes of this sub-section, the Local Government may, in its discretion, grant without examination a master's or serang's or an engineer's or engine-driver's, certificate of competency under this Act, and that a certificate of competency so granted without examination shall have the same effect as a certificate of competency granted under this Act after <sup>3</sup> examination.

" 29. (1) The Local Government may make <sup>3</sup> rules to regulate the granting of certificates of competency under this Act, and may by such rules—

(a) provide for the conduct of the examination of persons desirous of obtaining certificates of competency as masters or serangs, or as engineers or engine-drivers, under this Act ;

(b) prescribe the qualifications to be respectively required of persons desirous of obtaining first-class masters' certificates, second-class masters' certificates, serangs' certificates, engineers' certificates, first-class engine-drivers' certificates, and second-class engine-drivers' certificates respectively ;

(c) fix the fees to be paid by all applicants for examination ; and

(d) prescribe the form in which certificates are to be framed and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded.

" (2) The Local Government may also make rules with respect to the grant of certificates of service under this Act, and may by such rules—

(a) fix the fees to be paid for such certificates, and

(b) prescribe the form in which such certificates are to be framed and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded."

Power for Local Government to make rules as to grant of certificates of competency and certificates of service.

<sup>1</sup> Genl. Acts, Vol. III.

<sup>2</sup> See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), by which these Acts have been repealed, Coll. Stats, Ind., Vol. II.

<sup>3</sup> For notifications issued under the powers conferred under the proviso to s. 28 and under s. 29, see Genl. Acts, Vol. III.

Substitution  
of new clause  
for clause (c),  
section 43,  
Act VI,  
1884.

2. For clause (c) of section 43 of the said Act the following shall be substituted, namely :—

(c) if, in the case of a second-class master or serang, or of an engine-driver, the master or serang, or the engine-driver, is or has become, in the opinion of the Local Government, unfit to act as a second-class master or serang, or as an engine-driver, as the case may be ; ”.

Repeal of  
sections 9, 10  
and 11, Act  
III, 1890.

3. Sections 9, 10 and 11 of Act III of 1890<sup>1</sup> (*an Act to amend Acts VI and VII of 1884*), are hereby repealed.

ACT No. XVI OF 1891.<sup>2</sup>

[14th May 1891.]

### An Act to declare certain Courts in British India to be Colonial Courts of Admiralty.

WHEREAS it is provided by the Colonial Courts of Admiralty Act, 1890, that the Legislature of a British possession may by any colonial law declare any Court of unlimited civil jurisdiction in that possession to be a Colonial Court of Admiralty ;

53 & 54 Vict.  
c. 27.

And whereas it is expedient, in pursuance of that provision, to declare certain Courts in British India to be Colonial Courts of Admiralty ;

It is hereby enacted as follows :—

Title and  
commence-

1. (1) This Act may be called the Colonial Courts of Admiralty (India) Act, 1891 ; and

(2) It shall come into effect—

(a) if Her Majesty's pleasure thereon has been signified, by <sup>4</sup> notification in the Gazette of India on or before the first day of July 1891, then on that day, or

(b) if Her Majesty's pleasure thereon has not been so signified on or before that day, then on the day on which Her Majesty's pleasure shall be signified by such a notification as aforesaid.

Appointment  
of Colonial  
Courts of  
Admiralty.

2. The following Courts of unlimited civil jurisdiction are hereby declared to be Colonial Courts of Admiralty, namely :—

(1) the High Court of Judicature at Fort William in Bengal,

(2) the High Court of Judicature at Madras,

(3) the High Court of Judicature at Bombay.

<sup>1</sup> *Supra*.

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1891, Pt. V, p. 140 and for Proceedings in Council, see *ibid*, 1891, Pt. VI, p. 116.

<sup>3</sup> Coll. Stats. Ind., Vol. II.

<sup>4</sup> For notification publishing Her Majesty's Assent to this Act, see Gazette of India, 1891, Pt. I, p. 371.

- (4) <sup>1</sup>[the Chief Court of Lower Burma],  
 (5) the Court of the Resident at Aden, and  
 (6) the District Court of Karachi.

3. The expressions "Court having Admiralty jurisdiction" and "Admiralty Court" and the expression "Admiralty or Vice-Admiralty cause," and other expressions referring to Admiralty or Vice-Admiralty Courts or causes, shall, wherever any such expression occurs in any enactment of the Governor General in Council, or of a Governor in Council or Lieutenant-Governor in Council, be deemed to include a Colonial Court of Admiralty and a Colonial Court of Admiralty cause, and to refer to a Colonial Court of Admiralty or a Colonial Court of Admiralty cause, respectively.

Construction of Indian Acts referring to Admiralty and Vice-Admiralty Courts.

4. Court-fees in suits instituted in the Colonial Court of Admiralty at Rangoon, Aden or Karachi shall, unless the jurisdiction of the Court is to be exercised in any matter relating to the slave-trade, be leviable in accordance with the provisions of Chapter III of the <sup>2</sup> Court-fees Act, 1870.

Court-fees in suits in the Colonial Courts of Admiralty at Rangoon, Aden and Karachi.

I of 1870.

5. The enactments mentioned in the schedule are hereby repealed to the extent specified in the third column thereof.

Repeal.

## THE SCHEDULE.

(See section 5.)

### ENACTMENTS REPEALED.

Number and year.	Subject or title.	Extent of repeal.
1	2	3
II of 1864	Justice at Aden	In the preamble the words and figures from and inclusive of "and whereas Her Majesty" down to and inclusive of "Statute 12 and 13 Vict. c. 84."

<sup>1</sup> These words were substituted for the words "the Court of the Recorder of Rangoon" by the Lower Burma Courts Act, 1900 (6 of 1900), s. 47, and Schedule I, Ben. Code.

<sup>2</sup> Genl. Acts, Vol. II.

<sup>3</sup> The entry relating to the Lower Burma Courts Act, 1889 (11 of 1889), was repealed by the Lower Burma Courts Act, 1900 (6 of 1900), s. 48, Bur. Code.

ACT No. XVII OF 1891.<sup>1</sup>

[20th August, 1891.]

An Act to amend the <sup>2</sup>Indian Merchant Shipping Act, 1880.

WHEREAS it is expedient to amend and add to the provisions of the <sup>2</sup>Indian Merchant Shipping Act, 1880 (hereinafter called the said Act), respecting VII of 1880. unseaworthy and unsafe ships ; It is hereby enacted as follows :—

Title and  
commence-  
ment.

Addition to  
section 3,  
Act VII,  
1880.

Addition to  
section 4,  
Act VII,  
1880.

Substitution  
of new sec-  
tions for  
sections 33 to  
43, Act VII,  
1880.

Marking of  
deck-lines.

Marking of  
load-lines  
in case of  
vessels which

1. (1) This Act may be called the Deck and Load Lines Act, 1891 ; and
- (2) It shall come into force on the first day of September, 1891.

2. To section 3 of the said Act the following shall be added, namely :—

“The Local Government, with the previous sanction of the Governor General in Council, may from time to time, by notification in the local official Gazette, exclude from, or bring again within the operation of this Chapter or any part thereof, subject to such modifications thereof (if any) as may be specified in the notification, any Native craft not square-rigged.”

3. To section 4 of the said Act the following shall be added, namely :—

“ ‘Amidships’ means the middle of the length of the load water-line as measured from the fore-side of the stem to the aft-side of the stern-post.”

4. For sections 33 to 43, both inclusive, of the said Act the following sections shall be substituted, namely :—

## “ Deck and Load-lines.

“ 33. (1) Every British Indian ship shall be permanently and conspicuously marked outside with lines of not less than twelve inches in length and one inch in breadth painted longitudinally on each side amidships, or as near thereto as practicable, and indicating the position of each deck which is above water.

(2) The upper edge of each of these lines shall be level with the upper side of the deck-plank next the waterway at the place of marking.

(3) The line shall be white or yellow on a dark ground, or black on a light ground.

“ 34. (1) The master of every British ship not being a coasting-vessel within the meaning of the <sup>3</sup>Sea Customs Act, 1878, shall, before his ship is entered outwards from any port in British India upon any voyage, or, if that

VIII of 1878.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1890, Pt. V, p. 216 ; for Report of the Select Committee, see *ibid.*, 1891, Pt. V, p. 145 and for Proceedings in Council, see *ibid.*, 1890, Pt. VI, p. 145 and *ibid.*, 1891, Pt. VI, pp. 2 and 131.

<sup>2</sup> Genl. Acts, Vol. III.

<sup>3</sup> Genl. Acts, Vol. II.

is not practicable, as soon after as may be, mark outside upon each of her sides amidships, or as near thereto as practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

are not coast-  
ing-vessels.

(2) The centre of the disc shall be placed at such level below the deck-line marked under the provisions of this Chapter or of the <sup>1</sup> Merchant Shipping Act, 1876, as may be approved by the Local Government, and shall indicate the maximum load-line in perfectly smooth salt-water to which it shall be lawful to load the ship.

39 & 40 Vict.,  
c. 80.

(3) When a ship has been marked as by this section required, she shall be kept so marked until she next returns to a port of discharge in British India or arrives at a port in the United Kingdom.

“ 35. (1) Every person applying for entry of any such ship outwards shall insert, in the form of application made to the Customs-collector, a statement in writing of the distance in feet and inches between the centre of such disc and the upper edge of each of the lines indicating the position of the ship's decks which is above such centre; and, if default be made in delivering this statement, the Customs-collector may refuse to enter the ship outwards.

Statement in  
application  
to Customs  
officer for  
entry out-  
wards of  
such vessel as  
aforesaid.

(2) A copy of this statement shall be entered in the agreement with the crew before it is signed by any member of the crew, and no shipping master shall proceed with the engagement of a crew for any such ship until this entry has been made.

(3) The master shall enter a copy of this statement in the official log-book (if any).

VIII of 1878. “ 36. (1) The master of every British ship which is a coasting-vessel within the meaning of the <sup>2</sup> Sea Customs Act, 1878, shall, before proceeding to sea from any port, mark outside upon each of her sides amidships or as near thereto as practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

Marking of  
load lines in  
case of coast-  
ing vessels.

(2) The centre of the disc shall be placed at such level below the deck-line marked under the provisions of this Chapter or of the <sup>1</sup> Merchant Shipping Act, 1876, as may be approved by the Local Government, and shall indicate

39 & 40 Vict.,  
c. 80.

<sup>1</sup> See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), s. 438, Coll. Stats. Ind., Vol. II.

<sup>2</sup> Genl. Acts, Vol. II.



the maximum load-line in perfectly smooth salt-water to which it shall be lawful to load the ship :—

(3) When a ship has been marked as required by this section, she shall be kept so marked until notice has been given of an alteration.

Annual statement as to position of load-line on coasting-vessel.

“37. (1) The master of every such ship shall also once in every twelve months, immediately before the ship proceeds to sea, send or deliver to the Collector, or other principal officer of Customs of such port as the Local Government may, from time to time, appoint in this behalf, a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre.

(2) The master, before the ship proceeds to sea after any renewal or alteration of the disc, shall send or deliver to the Collector or other principal officer of Customs aforesaid notice in writing of such renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck-lines.

Modification of certain foregoing provisions.

(3) If default be made in sending or delivering any notice or statement required by this section to be sent or delivered, the master shall be liable to a fine which may extend to one thousand rupees.

Position of disc and approval of certificate as to position thereof.

“38. The foregoing provisions of this Chapter with respect to deck and load-lines are subject to the provisions of the two next following sections.

“39. (1) The position of the discs mentioned in sections 34 and 36 respectively shall be fixed in accordance with the tables framed by the Load-line Committee appointed in the United Kingdom before the passing of the <sup>1</sup> Merchant Shipping Act, 1890, subject to such allowance as may be necessary in consequence of any difference between the position of the deck-line marked under the provisions of this Chapter or of the <sup>2</sup> Merchant Shipping Act, 1876, and the position of the line from which free-board is measured under the said tables, and subject also to such modifications, if any, of the tables and the application thereof as may, from time to time, with the previous approval of the Governor General in Council, be sanctioned by the Local Government. 53 Vict., c. 9. 39 & 40 Vict. c. 80.

(2) The Local Government shall from time to time appoint—

(a) a surveyor employed by Lloyd's or by any other society, corporation or association for the survey or registry of shipping approved by the Board of Trade under section 2 of the <sup>1</sup> Merchant Shipping Act, 1890, and specially authorised in this behalf by Lloyd's or by such society, corporation or association, as the case may be, or 53 Vict., c. 9

<sup>1</sup> See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), Coll. Stats. Ind., Vol. II.

<sup>2</sup> See now the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), s. 438.

(b) an officer<sup>1</sup> specially selected by the Local Government for the purpose, to approve and certify on its behalf from time to time the position of any such disc as aforesaid, and any alteration thereof,

and may, with the previous sanction of the Governor General in Council, from time to time fix the fees<sup>1</sup> to be taken in respect of any such approval or certificate.

(3) The Local Government may suspend or remove from office any surveyor or officer so appointed.

"40. (1) The Local Government, with the previous sanction of the Governor General in Council, may from time to time<sup>1</sup> make rules—

Rules.

(a) determining the lines or marks to be used in connection with any such disc as aforesaid, in order to indicate the maximum load-line under different circumstances and at different seasons, and declaring that the provisions of this Chapter are to have effect as if any such line were drawn through the centre of the disc ;

(b) as to the mode in which the disc and the lines or marks to be used in connection therewith are to be marked or affixed on the ship, whether by painting, cutting or otherwise ;

(c) as to the mode of application for, and form of, certificates under this Chapter ; and

(d) as to the entry of such certificates, and any other prescribed particulars concerning the draught of water and free-board of the ship, in the official log (if any) of the ship, or other publication thereof on board the ship, and as to delivering copies of such entries.

(2) Rules<sup>2</sup> under clause (a) of sub-section (1) may, with respect to any class or classes of ships,—

(i) declare what shall be deemed to be seasons of fair weather and seasons of foul weather, respectively, for any of the purposes of the rules, and

(ii) modify the tables referred to in sub-section (1) of section 39.

(3) All rules intended to be made under this section shall previously be published in draft in such manner as may be prescribed by the Local Government, and shall not be formally promulgated for ninety days at the least after such publication, and all such rules shall, while in force, have effect as if enacted by this Act.

"41. Any master of a ship who neglects to cause his ship to be marked as

Penalty for

<sup>1</sup> For notification and rules issued and framed under these clauses and section 40, see Genl. Acts, Vol. III.

<sup>2</sup> For rules under this sub-section, see Genl. Acts, Vol. III.

neglecting to  
mark, or  
submerging,  
load-line.

by this Chapter required or to keep her so marked, or who allows the ship to be so loaded that when in perfectly smooth salt-water the centre of the disc is submerged,

and any person who conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate, any of the lines or marks prescribed by or under this Chapter, except in the event of the particulars thereby denoted being lawfully altered, or for the purpose of escaping capture by an enemy,

shall be liable in respect of each such offence to a fine which may extend to one thousand rupees.

Penalty on  
master for  
having mis-  
leading  
marks.

“42. The master of any ship on which any of the marks or lines prescribed by or under this Chapter is inaccurately placed so as to be likely to mislead, who does not forthwith cause such inaccuracy to be corrected, shall be liable to a fine which may extend to one thousand rupees.

Saving of  
ships marked  
in the United  
Kingdom.

“43. The provisions of this Chapter as to load-lines shall not apply to ships coming from ports in the United Kingdom and having such lines fixed, marked and certified in accordance with the provisions of the law for the time being there in force, or to ships registered in a British possession and having such lines fixed, marked and certified in accordance with the provisions of an enactment passed by the Legislature of that possession, with respect to which enactment such a declaration as is mentioned in section 3 of the Merchant Shipping Act, 1890, has been made by an Order of Her Majesty in Council and is for the time being in force.”

53 Vict., c. 9.

5. [*Addition to Act VII, 1880. Application of provision respecting overloading to foreign ships. Vir. rep. Act 18 of 1903 when notified.*]

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<sup>1</sup> See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), ss. 444 and 445, Coll. Stats. Ind., Vol. II.

## ACT No. XVIII OF 1891.

[1st October, 1891.]

## An Act to amend the Law of Evidence with respect to bankers' Books.

WHEREAS it is expedient to amend the Law of Evidence with respect to Bankers' books ; It is hereby enacted as follows :—

1. (1) This Act may be called the Bankers' Books Evidence Act, 1891.

Title, extent,  
and com-  
mencement.

(2) It extends to the whole of British India ; and

(3) It shall come into force at once.

2. In this Act, unless there is something repugnant in the subject or context—

<sup>2</sup> [(1) " company " means a company registered under any of the enactments relating to companies for the time being in force in the United Kingdom or in any of the Colonies or Dependencies thereof or in British India or incorporated by an Act of Parliament or of the Governor General in Council, or by Royal Charter or Letters Patent ; ]

(2) " bank " and " banker " mean—

(a) any company carrying on the business of bankers,

(b) any partnership or individual to whose books the provisions of this Act shall have been extended as hereinafter provided,

<sup>3</sup> [(c) any post office savings bank or money order office :]

(3) " bankers' books " include ledgers, day-books, cash-books, account-books and all other books used in the ordinary business of a bank :

(4) " legal proceeding " means any proceeding or inquiry in which evidence is or may be given, and includes an arbitration :

(5) " the Court " means the person or persons before whom a legal proceeding is held or taken :

(6) " Judge " means a Judge of a High Court :

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1891, Pt. V, p. 24 ; for Report of the Select Committee, see *ibid.*, p. 189 and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 15, 25, 117, 135 and 140.

The Act has been extended by notification under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), Genl. Acts, Vol. II, to British Baluchistan, see Gazette of India, 1896, Pt. II, p. 1004. It was declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

It has been declared in force in the Sonthal Parganas by s. 3 of the Sonthal Parganas Settlement Regulation (3 of 1872) as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), Ben. Code, Vol. I, see Calcutta Gazette, 1892, Pt. I, p. 448.

<sup>2</sup> This definition was substituted for the original definition by the Bankers' Books Evidence Act, 1900 (12 of 1900), Genl. Acts, Vol. V. The original definition ran as follows :—

(1) " company " means a company registered under any of the enactments relating to companies from time to time in force in British India, or incorporated by an Act of Parliament or of the Governor General in Council, or by Royal Charter or Letters Patent.

<sup>3</sup> Cl. (c) was added by s. 2 of the Bankers' Books Evidence Act, 1893 (1 of 1893), *infra*.

(7) "trial" means any hearing before the Court at which evidence is taken : and

(8) "certified copy" means a copy of any entry in the books of a bank together with a certificate written at the foot of such copy that it is a true copy of such entry, that such entry is contained in one of the ordinary books of the bank and was made in the usual and ordinary course of business, and that such book is still in the custody of the bank, such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title.

Power to  
extend provi-  
sions of Act.

3. The Local Government may, from time to time, by <sup>1</sup> notification in the official Gazette, extend the provisions of the Act to the books of any partnership or individual carrying on the business of bankers within the territories under its administration, and keeping a set of not less than three ordinary account books, namely, a cash-book, a day-book or journal, and a ledger, and may in like manner rescind any such notification.

Mode of  
proof of  
entries in  
bankers'  
books.

4. Subject to the provisions of this Act, a certified copy of any entry in a banker's book shall in all legal proceedings be received as *prima facie* evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is now by law admissible, but not further or otherwise.

Case in which  
officer of bank  
not compell-  
able to pro-  
duce books.

5. No officer of a bank shall in any legal proceeding to which the bank is not a party be compellable to produce any banker's book the contents of which can be proved under this Act, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the Court or a Judge made for special cause.

Inspection of  
books by  
order of  
Court or  
Judges.

6. (1) On the application of any party to a legal proceeding the Court or a Judge may order that such party be at liberty to inspect and take copies of any entries in a banker's book for any of the purposes of such proceeding, or may order the bank to prepare and produce, within a time to be specified in the order, certified copies of all such entries, accompanied by a further certificate that no other entries are to be found in the books of the bank relevant to the matters in issue in such proceeding, and such further certificate shall be dated and subscribed in manner hereinbefore directed in reference to certified copies.

(2) An order under this or the preceding section may be made either with or without summoning the bank, and shall be served on the bank three clear days (exclusive of bank holidays) before the same is to be obeyed, unless the Court or Judge shall otherwise direct.

<sup>1</sup> For notifications by the Government of Bombay extending the Act to the books of Messrs. William Watson and Co. of Bom. and Karachi, see Bom. Govt. Gazette, 1902, Pt. I, p. 1289, and as to Madras, see Mad. R. & O., Vol. I (List).

(3) The bank may at any time before the time limited for obedience to any such order as aforesaid either offer to produce their books at the trial or give notice of their intention to show cause against such order, and thereupon the same shall not be enforced without further order.

7. (1) The costs of any application to the Court or a Judge under or for the purposes of this Act and the costs of anything done or to be done under an order of the Court or a Judge made under or for the purposes of this Act shall be in the discretion of the Court or Judge, who may further order such costs or any part thereof to be paid to any party by the bank if they have been incurred in consequence of any fault or improper delay on the part of the bank.

(2) Any order made under this section for the payment of costs to or by a bank may be enforced as if the bank were a party to the proceeding.

(3) Any order under this section awarding costs may, on application to any Court of Civil Judicature designated in the order, be executed by such Court as if the order were a decree for money passed by itself.

Provided that nothing in this sub-section shall be construed to derogate from any power which the Court or Judge making the order may possess for the enforcement of its or his directions with respect to the payment of costs.

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### ACT No. II OF 1892.<sup>1</sup>

[29th January, 1892.]

## An Act to validate certain marriages solemnized under Part VI of the <sup>1</sup> Indian Christian Marriage Act, 1872.

XV of 1872. WHEREAS provision is made in Part VI of the <sup>1</sup> Indian Christian Marriage Act, 1872, for the solemnization of marriages between persons of whom both are Native Christians, but not of marriages between persons of whom one only is a Native Christian ;

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<sup>1</sup> Short title, "The Marriage Validation Act, 1892." See the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1891, Pt. V, p. 142 ; for Report of the Select Committee, see *ibid*, 1892, Pt. V, p. 5 and for Proceedings in Council, see *ibid*, 1891, Pt. VI, p. 117, and *ibid*, 1892, Pt. VI, p. 11.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

The Act has also been declared in force in the Sonthal Parganas, by s. 3 of the Sonthal Parganas Settlement Regulation (3 of 1872) as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), Pen. Code, Vol. I, see Gazette of India, 1895, Pt. I, p. 310.

<sup>2</sup> Genl. Acts, Vol. II.

And whereas persons licensed under section 9 of the said Act have in divers parts of British India, through ignorance of the law, permitted marriages to be solemnized in their presence under the said Part between persons of whom one is a Native Christian and the other is not a Native Christian ;

And whereas it is expedient that such marriages, having been solemnized in good faith, should be validated ;

It is hereby enacted as follows :—

Commence-  
ment.  
Definition.

1. This Act shall come into force at once.

2. In this Act the expression “ Native Christian ” has the same meaning as in the <sup>1</sup> Indian Christian Marriage Act, 1872.

XV of 1872.

3. All marriages which have already been solemnized under Part VI of the <sup>1</sup> Indian Christian Marriage Act, 1872, between persons of whom one only was a Native Christian, shall be as good and valid in law as if such marriages had been solemnized between persons of whom both were Native Christians :

XV of 1872.

Provided that nothing in this section shall apply to any marriage which had been judicially declared to be null and void, or to any case where either of the parties has, since the solemnization of such marriage and prior to the commencement of his Act, contracted a valid marriage.

Validation of  
records of  
irregular  
marriages.

4. Certificates of marriages which are declared by the last foregoing section to be good and valid in law, and register-books, and certified copies of true and duly authenticated extracts therefrom, deposited in compliance with the law for the time being in force, in so far as the register-books and extracts relate to such marriages as aforesaid, shall be received as evidence of such marriages as if such marriages had been solemnized between persons of whom both were Native Christians.

Application  
of Act to  
marriages  
under Act  
V of 1865.

5. References in this Act to the <sup>1</sup> Indian Christian Marriage Act, 1872, shall, so far as may be requisite, be construed as applying also to the corresponding portions of the <sup>1</sup> Indian Marriage Act, 1865.

XV of 1872.

V of 1865.

Penalty for  
solemnizing  
irregular  
marriages.

6. If any person licensed under section 9 of the said Act to grant certificates of marriage between Native Christians shall at any time after the commencement of this Act solemnize or affect to solemnize any marriage under Part VI of the said Act or grant any such certificate as therein mentioned, knowing that one of the parties to such marriage or affected marriage was at the date of such solemnization not a Christian, he shall be liable to have his license cancelled, and in addition thereto he shall be deemed to have been guilty of an offence prohibited by section 73 of the said Act, and shall be punishable accordingly.

<sup>1</sup> Genl. Acts, Vol. II.

<sup>2</sup> Repealed (except as to Straits Settlements) by Act 15 of 1872, Genl. Acts, Vol. II.

ACT No. VIII of 1892.<sup>1</sup>

[22nd October, 1892.]

An Act to remove doubts as to the levy and collection of tolls upon the Lansdowne Bridge over the Indus at Sukkur in the Presidency of Bombay, and for other purposes.

Bom. Act III  
of 1875.

VIII of 1851.

WHEREAS by an Act passed by the Governor of Bombay in Council, intituled <sup>2</sup> “an Act for enabling Government to levy tolls on public roads and bridges in the Presidency of Bombay,” the Act of the Governor General in Council <sup>3</sup> “for enabling Government to levy tolls on public roads and bridges” was repealed as far as it affected the Presidency of Bombay ;

And whereas the bridge on the line of the North Western Railway over the Indus at Sukkur in the said Presidency of Bombay, commonly known as “The Lansdowne Bridge,” was made and is repaired at the expense of the Government of India ;

And whereas, in consequence of such repeal as aforesaid, doubts have arisen whether or not there is any subsisting authority competent to impose and levy tolls for the use of the said bridge, and it is expedient to remove such doubts ;

It is enacted as follows :—

1. (1) This Act may be called the Lansdowne Bridge Act, 1892 ;
- (2) It extends to the whole of British India ; and
- (3) It shall come into force at once.

Title, extent  
and com-  
mencement.

2. Notwithstanding the repeal of the lastly hereinbefore mentioned Act the Governor General in Council may cause such rates of toll, not exceeding the rates mentioned in the schedule annexed to that Act, as he may think fit to be levied in respect of the said Lansdowne Bridge, and may place the collection of such tolls under the management of such persons as may appear to him proper, and all the provisions of the said last mentioned Act shall apply to such tolls and the collection and recovery thereof in the same manner as if such provisions were herein re-enacted verbatim.

Levy of tolls.

3. All tolls heretofore levied or collected upon the said Lansdowne Bridge under the authority of the Governor General in Council or of the Governor of Bombay in Council shall be deemed to have been duly levied and collected under the authority of the said Act as if the same had not been repealed.

Validation  
of past levy  
of tolls.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1892, Pt. V, p. 67 and for Proceedings in Council, see *ibid*, 1892, Pt. VI, pp. 70 and 75.

<sup>2</sup> Bom. Code, Vol. II.

<sup>3</sup> Genl. Acts, Vol. I.



Application  
of Act to pub-  
lic roads and  
bridges.

4. Where any public road or bridge has or shall have been made and repaired at the expense of the Government of India and no other adequate provision shall have been made for the levy and collection of tolls thereon, the Governor General in Council may, by notification in the Gazette of India, apply this Act to such road or bridge, and thereupon all the provisions of this Act shall apply to such road or bridge as if the same had been herein named in addition to the said Lansdowne Bridge.

ACT No. X of 1892.<sup>1</sup>

[25th October, 1892.]

An Act to provide for the levy of a rate on private estates under the management of the Government to meet the cost of supervision and management.

WHEREAS it is expedient to provide for the levy of a rate on private estates under the management of the Government to cover the cost of all Government establishments in so far as they are employed in the supervision and management of such estates, other than establishments specially entertained for any particular estate or group of estates, and to meet all contingent expenditure incurred by the Government in connection with such supervision and management; It is hereby enacted as follows :—

Title, extent  
and com-  
mencement.

1. (1) This Act may be called the Government Management of Private Estates Act, 1892;

(2) It extends to the whole of British India, inclusive of <sup>2</sup> \* \* \* British Baluchistan ; and

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) “ Immoveable property ” includes land, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to anything

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1892, Pt. V, p. 14 ; for Report of the Select Committee, see *ibid.*, 1892, Pt. V, p. 69 and for Proceedings in Council, see *ibid.*, 1892, Pt. VI, p. 73.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), see the First Schedule and s. 4, Bur. Code.

The Act has been declared in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3, as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, Ben. Code, Vol. I.

<sup>2</sup> The words “ Upper Burma and ” were repealed by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

which is attached to the earth but not standing timber, growing crops or grass ;

(2) "Gross income" includes all receipts of every kind in produce or cash, except money borrowed, recoveries of principal and the proceeds of sale of immoveable property or of moveable property properly classed as capital ; and

(3) "Private estates under Government management" include—

- (a) estates under the Court of Wards ;
- (b) encumbered estates under Government management ;
- (c) estates attached for default of payment of Government revenue ;
- (d) minors' estates placed under the guardianship of a revenue-officer of the Government by a Civil Court ;
- (e) estates managed by a Collector in pursuance of any order made under the <sup>1</sup> Code of Civil Procedure ; and
- (f) all other estates made over to or taken under the management of a revenue-officer of the Government as such under any law for the time being in force or in virtue of any agreement.

XIV of 1892.

3. It shall be lawful for the <sup>2</sup> Local Government—

Power to  
levy rate.

(1) to levy on all private estates under Government management a rate, not exceeding five per cent. on the gross income, calculated, as nearly as may be possible, to cover—

(a) the cost of all Government establishments in so far as they may be employed in the supervision or management of such estates other than establishments specially entertained for the supervision or management of any particular estate or group of estates, and

(b) all contingent expenditure incurred in consequence of such supervision or management ;

(2) from time to time to vary such rate ; and

(3) to reduce or remit such rate in any special case or cases as may be equitable :

Provided that, in deciding the amount of the rate to be levied under this Act on any particular estate or group of estates, the Local Government shall consider the expenditure incurred on special establishments for such estate or estates.

<sup>1</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.

<sup>2</sup> For instance of notification issued under the powers conferred by this section fixing a rate to be levied on any estate, see Cen. Provs. R. and O. (List).

Power to  
levy special  
charges.

4. In cases where an officer of the Government is employed to give legal advice or to audit accounts on behalf of any estate, the Local Government, if it considers the services rendered to be of a special nature, may, in its discretion, direct a special charge to be made against that estate on account of such services, irrespective of the rate leviable under the last foregoing section.

Saving as to  
special ex-  
penditure.

5. Nothing in this Act shall apply to the cost of establishments specially entertained or to expenditure of any description specially incurred in respect of any particular estate or estates.

Validation  
of levy of  
past rates.

6. All rates for general supervision or management levied by any Local Government before the commencement of this Act shall be deemed to have been levied under this Act.

Powers to  
make rules.

7. The Local Government may make any rules<sup>1</sup> and issue any orders which may be necessary for carrying this Act into effect, and which are consistent therewith.

Exemption  
from juris-  
diction of  
Courts.

8. Where any Government establishment is employed in such supervision as aforesaid, the Local Government shall be the sole judge of the cost attributable to such employment, and its decision thereon shall not be questioned in any Court of Law or otherwise.

Repeal.

9. Section 17 of the <sup>2</sup> Court of Wards Act, 1879 (passed by the Lieutenant-Governor of Bengal in Council), and so much of <sup>2</sup> Act III of 1881 (also passed by the Lieutenant-Governor of Bengal in Council) as relates to section 17 of the said <sup>2</sup> Court of Wards Act, 1879, are hereby repealed.

Ben. IX of  
1879.

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<sup>1</sup> For instances of rules made under the powers conferred by this section, *see* North-Western Provinces and Oudh Gazette, 1893, Pt. I, p. 533 and Punj. List of Local R. & O.

<sup>2</sup> Ben. Code, Vol. I.

1893]: Act I.]

1893 : Act IV.]

Partition.

ACT No. I of 1893.<sup>1</sup>

[20th January, 1893.]

An Act to extend the provisions of the Bankers' Books Evidence Act, 1891, to the Books of Post Office Savings Banks and Money Order Offices.

XVIII of  
1891.

WHEREAS it is expedient to extend the provisions of the <sup>3</sup> Bankers' Books Evidence Act, 1891, to the books of the savings banks and money order offices of the Post Office ; It is hereby enacted as follows :—

1. (1) This Act may be called the Bankers' Books Evidence Act, 1893 ; and

Short title  
and com-  
mencement.

(2) It shall come into force at once.

XVIII of  
1891.

2. After clause (b) of sub-section (2) of section 2 of the said <sup>3</sup> Bankers' Books Evidence Act, 1891, the following clause shall be added, namely :—

[*Vide supra*, p. 349.]

Addition to  
definition of  
"bank" and  
"banker" in  
section 2,  
sub-section  
(2), of Act  
XVIII of  
1891.

ACT No. IV of 1893.<sup>1</sup>

[9th March, 1893.]

An Act to amend the Law relating to Partition.

WHEREAS it is expedient to amend the law relating to partition ; It is hereby enacted as follows :—

1. (1) This Act may be called the Partition Act, 1893 ;

(2) It extends to the whole of British India ; and

(3) It shall come into force at once.

(4) But nothing herein contained shall be deemed to affect any local law providing for the partition of immoveable property paying revenue to Government.

Title, extent,  
commence-  
ment and  
saving.

2. Whenever in any suit for partition in which, if instituted prior to the commencement of this Act, a decree for partition might have been made, it

Power to  
Court to  
order sale  
instead of

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1893, Pt. V, p. 15 and for Proceedings in Council, *see* *ibid*, Pt. VI, pp. 12 and 27.

The Act has been extended to the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), Ben. Code, Vol. I.

<sup>2</sup> *Supra*.

<sup>3</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1892, Pt. V, p. 46 ; for Report of the Select Committee, *see* *ibid*, 1893, Pt. V, p. 51 and for Proceedings in Council, *see* *ibid*, 1893, Pt. VI, pp. 38 and 49.

For Civil Rules of Practice made by the High Court, Madras, under this Act, the Code of Civil Procedure and certain other Acts for observance by the Subordinate Civil Courts of that Presidency, except the Madras Small Cause Court, *see* Fort St. George Gazette, 1905, Supplement, p. 1.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

division in  
partition  
suits.

appears to the Court that, by reason of the nature of the property to which the suit relates, or of the number of the shareholders therein or of any other special circumstance, a division of the property cannot reasonably or conveniently be made, and that a sale of the property, and distribution of the proceeds would be more beneficial for all the shareholders, the Court may, if it thinks fit, on the request of any of such shareholders interested individually or collectively to the extent of one moiety or upwards, direct a sale of the property and a distribution of the proceeds.

Procedure  
when sharer  
undertakes to  
buy.

3. (1) If, in any case in which the Court is requested under the last foregoing section to direct a sale, any other shareholder applies for leave to buy at a valuation the share or shares of the party or parties asking for a sale, the Court shall order a valuation of the share or shares in such manner as it may think fit and offer to sell the same to such shareholder at the price so ascertained, and may give all necessary and proper directions in that behalf.

(2) If two or more shareholders severally apply for leave to buy as provided in sub-section (1), the Court shall order a sale of the share or shares to the shareholder who offers to pay the highest price above the valuation made by the Court.

(3) If no such shareholder is willing to buy such share or shares at the price so ascertained, the applicant or applicants shall be liable to pay all costs of or incident to the application or applications.

Partition  
suit by trans-  
feree of  
share in  
dwelling-  
house.

4. (1) Where a share of a dwelling-house belonging to an undivided family has been transferred to a person who is not a member of such family and such transferee sues for partition, the Court shall, if any member of the family being a shareholder shall undertake to buy the share of such transferee, make a valuation of such share in such manner as it thinks fit and direct the sale of such share to such shareholder, and may give all necessary and proper directions in that behalf.

(2) If in any case described in sub-section (1) two or more members of the family being such shareholders severally undertake to buy such share, the Court shall follow the procedure prescribed by sub-section (2) of the last foregoing section.

Representa-  
tion of  
parties under  
disability.

5. In any suit for partition a request for sale may be made or an undertaking, or application for leave, to buy may be given or made on behalf of any party under disability by any person authorized to act on behalf of such party in such suit, but the Court shall not be bound to comply with any such request, undertaking or application unless it is of opinion that the sale or purchase will be for the benefit of the party under such disability.

6. (1) Every sale under section 2 shall be subject to a reserved bidding, and the amount of such bidding shall be fixed by the Court in such manner as it may think fit and may be varied from time to time.

Reserved bidding and bidding by shareholders.

(2) On any such sale any of the shareholders shall be at liberty to bid at the sale on such terms as to non-payment of deposit or as to setting off or accounting for the purchase-money or any part thereof instead of paying the same as to the Court may seem reasonable.

(5) If two or more persons, of whom one is a shareholder in the property, respectively advance the same sum at any bidding at such sale, such bidding shall be deemed to be the bidding of the shareholder.

7. Save as hereinbefore provided, when any property is directed to be sold under this Act, the following procedure shall, as far as practicable, be adopted, namely :—

Procedure to be followed in case of sales.

(a) if the property be sold under a decree or order of the High Court of Calcutta, Madras or Bombay in the exercise of its original jurisdiction, or of the <sup>1</sup>Court of the Recorder of Rangoon, the procedure of such Court in its original civil jurisdiction for the sale of property by the Registrar ;

(b) if the property be sold under a decree or order of any other Court, such procedure as the High Court may from time to time by rules prescribe in this behalf, and until such rules are made, the procedure prescribed in the <sup>2</sup> Code of Civil Procedure in respect of sales in execution of decrees.

XIV of 1882. 8. Any order for sale made by the Court under section 2, 3 or 4 shall be deemed to be a decree within the meaning of section 2 of the <sup>2</sup>Code of Civil Procedure.

Orders for sale to be deemed decrees.

XIV of 1882. 9. In any suit for partition the Court may, if it shall think fit, make a decree for a partition of part of the property to which the suit relates and a sale of the remainder under this Act.

Saving of power to order partly partition and partly sale. Application of Act to pending suits.

10. This Act shall apply to suits instituted before the commencement thereof, in which no scheme for the partition of the property has been finally approved by the Court.

<sup>1</sup> There is no longer a Court of the Recorder at Rangoon, since the establishment of a Chief Court there, *see* the Lower Burma Courts Act, 1900 (6 of 1900), Bur. Code.

<sup>2</sup> *See* now Act 5 of 1908, Genl. Acts, Vol. VI.

## THE LAND ACQUISITION ACT, 1894 ( I OF 1894 ).

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  28. Collector may be directed to pay interest on excess compensation.
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## PART IV.

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29. Particulars of apportionment to be specified.
  30. Dispute as to apportionment.
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ACT No. I OF 1894.<sup>1</sup>

[2nd February, 1894.]

## An Act to amend the law for the acquisition of land for public purposes and for Companies.

WHEREAS it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies and for determining the amount of compensation to be made on account of such acquisition ; It is hereby enacted as follows :—

## PART I.

## PRELIMINARY.

1. (1) This Act may be called the Land Acquisition Act, 1894 ;

(2) It extends to the whole of British India ; and

(3) It shall come into force on the first day of March, 1894.

Short title,  
extent and  
commence-  
ment.

2. (1) The Land Acquisition Act, 1870, and section 74 of the <sup>2</sup> Punjab Courts Act, 1884, are hereby repealed.

Repeal.

(2) But all proceedings commenced, officers appointed or authorized, agreements published and rules made under the said Land Acquisition Act shall, as far as may be, be deemed to have been respectively commenced, appointed or authorized, published and made under this Act.

X of 1870.  
XVIII of  
1884.

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1892, Pt. V, p. 32 ; for Report of the Select Committee, *see* *ibid*, 1894, Pt. V, p. 23 and for Proceedings in Council, *see* *ibid*, 1892, Pt. VI, p. 25, and *ibid*, 1894, pp. 19, 24 to 42.

The Act has been declared in force in—

(1) Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), s. 4, Bur. Code ;

(2) Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3, Ben. Code, Vol. I.

(3) Angul District by notification under s. 5 of the Angul District Regulation, 1894 (1 of 1894), *see* Calcutta Gazette, 1901, Pt. I, p. 1534.

The Act has also been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874), to be in force in (1) the districts of Hazaribagh, Lohardaga (now called the Ranchi District—Calcutta Gazette, 1899, Pt. I, p. 44) and Manbhum, and in Pargana Dhalbhum and the Kolhan in the District of Singhbhum—Gazette of India, 1894, Pt. I, p. 400 ; and (2) the District of Palamau, Gazette of India, 1894, Pt. I, p. 639.

It has been extended, by notification under s. 5 of the same Act, to British Baluchistan, Bal. Code.

For directions by Financial Commissioner, Burma, under the Act, *see* Burma Gazette, 1907, Pt. IV, p. 827.

<sup>2</sup> Punj. and N.-W. Code.

(3) Any enactment or document referring to the said Land Acquisition Act or to any enactment thereby repealed shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

**Definitions.**

3. In this Act, unless there is something repugnant in the subject or context,—

- (a) the expression “land” includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth :
- (b) the expression “person interested” includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act ; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land :
- (c) the expression “Collector” means the Collector of a district, and includes a Deputy Commissioner and any <sup>1</sup> officer specially appointed by the Local Government to perform the functions of a Collector under this Act :
- (d) the expression “Court” means a principal Civil Court of original jurisdiction, unless the Local Government has <sup>2</sup> appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act :
- (e) the expression “Company” means a Company registered under the <sup>3</sup> Indian Companies Act, 1882, or under the (English) Companies Acts, 1862 to 1890, or incorporated by an Act of Parliament or of the Governor General in Council, or by Royal Charter or Letters Patent :
- (f) the expression “public purpose” includes the provision of village-sites in districts in which the Local Government shall have declared by <sup>4</sup> notification in the official Gazette that it is customary for the Government to make such provision : and

VI of 1882.

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<sup>1</sup> For officers specially appointed under clause (c) in—

(1) Ajmer-Merwara, *see* Gazette of India, 1902, Pt. II, p. 1081.

(2) Assam, *see* Suppl. to Assam Local R. and O.

(3) Bombay, *see* Bom. R. and O., Vol. I.

(4) Burma, *see* Bur. R. M., Vol. I.

<sup>2</sup> For instances of such appointments, *see* Mad. R. and O., Vol. I ; Bom. R. and O., Vol. I ; Coorg R. and O. and U. P. List of R. and O., Vol. I.

For notification appointing the District Judge of Mirzapur for the family Domains of the Maharaja of Benares in the Mirzapur and Benares district, *see* U. P. Gazette, 1907, Pt. I, p. 725.

<sup>3</sup> Genl. Acts, Vol. III.

<sup>4</sup> For instances of such notifications, *see* Bur. R. M., Vol. I ; Bom. R. and O., Vol. I and Coorg, *see* Coorg R. and O.

## (Part I.—Preliminary.)

(g) the following persons shall be deemed persons “entitled to act” as and to the extent hereinafter provided (that is to say)—

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability :

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and whether of full age or not, to the same extent as if she were unmarried and of full age ; and

the guardians of minors and the committees or managers of lunatics or idiots

shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted :

Provided that—

(i) no person shall be deemed “entitled to act” whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act ;

(ii) in every such case the person interested may appear by a next friend or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof ;

XIV of 1882.

(iii) the provisions of Chapter XXXI of the <sup>1</sup> Code of Civil Procedure shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act ; and

(iv) no person “entitled to act” shall be competent to receive the compensation-money payable to the person for whom he is entitled to act unless he would have been competent to alienate the land and receive and give a good discharge for the purchase-money on a voluntary sale.

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<sup>1</sup>See now Act 5 of 1908, Genl. Acts, Vol. VI.

## (Part II.—Acquisition.)

## PART II.

## ACQUISITION.

*Preliminary Investigation.*

Publication  
of preliminary  
notification and  
powers of  
officers there-  
upon.

<sup>1</sup> 4. (1) Whenever it appears to the Local Government that land in any locality is likely to be needed for any public purpose, a notification to that effect shall be published in the official Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

(2) Thereupon it shall be lawful for any officer, either generally or specially authorised <sup>2</sup> by such Government in this behalf, and for his servants and workmen,—

to enter upon and survey and take levels of any land in such locality ;

to dig or bore into the subsoil ;

to do all other acts necessary to ascertain whether the land is adapted for such purpose ;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon ;

to make such levels, boundaries and line by placing marks and cutting trenches ; and,

where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle :

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Payment for  
damage.

5. The officer so authorised shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue-officer of the district, and such decision shall be final.

*Declaration of intended Acquisition.*

Declaration  
that land is  
required for

6. (1) Subject to the provisions of Part VII of this Act, whenever it appears to the Local Government that any particular land is needed for a

<sup>1</sup> As to amendments with which this section should be read when land is required for the purposes of a Company, see s. 38 (2), *infra*.

A protected monument may be acquired under this Act as if its preservation were a "public purpose" within the meaning of the Act, see s. 10 of the Ancient Monuments Preservation Act, 1904 (7 of 1904), Genl. Acts, Vol. VI.

<sup>2</sup> For officers specially authorized in Burma, see Bur. R. M., Vol. I.

public purpose, or for a Company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders : a public purpose.

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.

(2) The declaration shall be published in the official Gazette, and shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be ; and, after making such declaration, the Local Government may acquire the land in manner hereinafter appearing.

7. Whenever any land shall have been so declared to be needed for a public purpose or for a Company, the Local Government, or some officer authorised by the Local Government in this behalf, shall direct the Collector to take order for the acquisition of the land. After declaration Collector to take order for acquisition.

8. The Collector shall thereupon cause the land (unless it has been already marked out under section 4) to be marked out. He shall also cause it to be measured, and if no plan has been made thereof, a plan to be made of the same. Land to be marked out, measured and planned.

9. (1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him. Notice to persons interested.

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(3) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be

interested therein, or to be entitled to act for persons so interested, as reside or have agents authorized to receive service on their behalf, within the revenue-district in which the land is situate. .

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address or place of business and registered under Part III of the <sup>1</sup> Indian Post Office Act, 1866.

XIV of 1866.

Power to re-  
quire and  
enforce the  
making of  
statements  
as to names  
and interests.

10. (1) The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

(2) Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the <sup>2</sup> Indian Penal Code.

XLV of 1860 .

*Enquiry into Measurements, Value and Claims, and Award by the Collector.*

Enquiry and  
award by  
Collector.

11. On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8, and into the value of the land, and into the respective interests of the persons claiming the compensation and shall make an award under his hand of—

- (i) the true area of the land ;
- (ii) the compensation which in his opinion should be allowed for the land ; and
- (iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

Award of  
Collector  
when to be  
final.

12. (1) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

<sup>1</sup> See now the Indian Post Office Act, 1898 (6 of 1898), Genl. Acts, Vol. V.

<sup>2</sup> Genl. Acts, Vol. I.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

13. The Collector may, for any cause he thinks fit, from time to time adjourn the enquiry to a day to be fixed by him. Adjournment of enquiry.

14. For the purpose of enquiries under this Act the Collector shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the 'Code of Civil Procedure. Power to summon and enforce attendance of witnesses and production of documents.

XIV of 1882.

15. In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 and 24. Matters to be considered and neglected.

#### *Taking possession.*

16. When the Collector has made an award under section 11, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances. Power to take possession.

17. (1) In cases of urgency, whenever the Local Government so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in section 9, sub-section (1), take possession of any waste or arable land needed for public purposes or for a Company. Such land shall thereupon vest absolutely in the Government, free from all encumbrances. Special powers in cases of urgency.

(2) Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any Railway Administration to acquire the immediate possession of any land for the maintenance of their traffic or for the purpose of making thereon a river-side or ghat station, or of providing convenient connection with or access to any such station, the Collector may, immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the Local Government, enter upon and take possession of such land, which shall thereupon vest absolutely in the Government free from all encumbrances :

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention so to do, or such longer notice as may be reasonably sufficient to enable such occupier to remove his moveable property from such building without unnecessary inconvenience.

<sup>1</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.



*(Part III.—Reference to Court and Procedure thereon.)*

(3) In every case under either of the preceding sub-sections the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 24; and, in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

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### PART III.

#### REFERENCE TO COURT AND PROCEDURE THEREON.

Reference to  
Court.

18. (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken :

Provided that every such application shall be made,—

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award ;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

Collector's  
statement  
to the Court.

19. (1) In making the reference, the Collector shall state for the information of the Court, in writing under his hand,—

(a) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon ;

(b) the names of the persons whom he has reason to think interested in such land ;

(c) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11 ; and

(d) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively.

20. The Court shall thereupon cause a notice specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely :—

Service of notice.

- (a) the applicant ;
- (b) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded ; and,
- (c) if the objection is in regard to the area of the land or to the amount of the compensation, the Collector.

21. The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

Restriction on scope of proceedings.

22. Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court in the province shall be entitled to appear, plead and act (as the case may be) in such proceeding.

Proceedings to be in open Court.

23. (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration—

Matters to be considered in determining compensation.

*first*, the market-value of the land at the date of the publication of the declaration relating thereto under section 6 ;

*secondly*, the damage sustained by the person interested, by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof ;

*thirdly*, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land ;

*fourthly*, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, moveable or immoveable, in any other manner, or his earnings ;

*fifthly*, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change ; and

*sixthly*, the damage (if any) *bono fide* resulting from diminution of the profits of the land between the time of the publication of the

## (Part III.—Reference to Court and Procedure thereon.)

declaration under section 6 and the time of the Collector's taking possession of the land.

(2) In addition to the market-value of the land as above provided, the Court shall in every case award a sum of fifteen per centum on such market-value, in consideration of the compulsory nature of the acquisition.

Matters to be neglected in determining compensation.

24. But the Court shall not take into consideration—

- first*, the degree of urgency which has led to the acquisition.
- secondly*, any disinclination of the person interested to part with the land acquired;
- thirdly*, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;
- fourthly*, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put;
- fifthly*, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;
- sixthly*, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put up; or,
- seventhly*, any outlay or improvements on, or disposal of, the land acquired, commenced, made or effected without the sanction of the Collector after the date of the publication of the declaration under section 6.

Rules as to amount of compensation.

25. (1) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section 11.

(2) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Collector.

Form of awards.

26. Every award under this part shall be in writing signed by the Judge, and shall specify the amount awarded under clause *first* of sub-section (1) of section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

*(Part III.—Reference to Court and Procedure thereon.)*

27. (1) Every such award shall also state the amount of costs incurred in the proceedings under this part, and by what persons and in what proportions they are to be paid. Costs.

(2) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

28. If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court. Collector may be directed to pay interest on excess compensation.

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## PART IV.

### APPORTIONMENT OF COMPENSATION.

29. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment. Particulars of apportionment to be specified.

30. When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court. Dispute as to apportionment.

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## PART V.

### PAYMENT.

31. (1) On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section. Payment of compensation or deposit of same in Court.

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 13 would be submitted :

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount :

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18 :

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section the Collector may, with the sanction of the Local Government, instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land-revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and <sup>1</sup> competent to contract in respect thereof.

32. (1) If any money shall be deposited in Court under sub-section (2)\* of the last preceding section and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Court shall—

(a) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held,

or

(b) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court shall think fit;

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied—

(i) in the purchase of such other lands as aforesaid ; or

(ii) in payment to any person or persons becoming absolutely entitled thereto.

Investment  
of money  
deposited in  
respect of  
lands belong-  
ing to per-  
son incom-  
petent to  
alienate.

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\*As to persons who are competent to contract, see s. 11 of the Indian Contract Act, 1872 (9 of 1872), Genl. Acts, Vol. II.

*(Part V.—Payment. Part VI.—Temporary Occupation of Land.)*

(2) In all cases of moneys deposited to which this section applies the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the Collectors, namely :—

- (a) the costs of such investments as aforesaid ;
- (b) the costs of the orders for the payment of the interest or other proceeds, of the securities upon which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys, and of all proceedings relating thereto except such as may be occasioned by litigation between adverse claimants.

33. When any money shall have been deposited in Court under this Act for any cause other than that mentioned in the last preceding section, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

Investment  
of money  
deposited  
in  
other case.

34. When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the time of so taking possession until it shall have been so paid or deposited.

Payment of  
interest.

## PART VI.

### TEMPORARY OCCUPATION OF LAND.

35. (1) Subject to the provisions of Part VII of this Act, whenever it appears to the Local Government that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a Company, the Local Government may direct the Collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation.

Temporary  
occupation of  
waste or  
arable land.  
Procedure  
when differ-  
ence as to  
compensa-  
tion exists.

(2) The Collector shall thereupon give notice in writing to the persons interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments as shall be agreed upon in writing between him and such persons respectively.

*(Part VI.—Temporary Occupation of Land. Part VII.—**Acquisition of Land for Companies.)*

(3) In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference to the decision of the Court.

Power to enter and take possession, and compensation on restoration.

36. (1) On payment of such compensation, or on executing such agreement or on making a reference under section 35, the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

(2) On the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein :

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the Local Government shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a Company.

Difference as to condition of land.

37. In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference to the decision of the Court.

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## PART VII.

### ACQUISITION OF LAND FOR COMPANIES.

Company may be authorized to enter and survey.

38. (1) Subject to such rules as the Governor General of India in Council may from time to time prescribe in this behalf, the Local Government may authorize any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by section 4.

(2) In every such case section 4 shall be construed as if for the words "for such purpose" the words "for the purposes of the Company" were substituted ; and section 5 shall be construed as if after the words "the officer" the words "of the Company" were inserted.

Previous consent of Local Government and execution of agreement necessary.

39. The provisions of sections 6 to 37 (both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the Local Government, nor unless the Company shall have executed the agreement hereinafter mentioned.

*(Part VII.—Acquisition of Land for Companies.)*

40. (1) Such consent shall not be given unless the Local Government be satisfied, by an enquiry held as hereinafter provided,—

Previous  
enquiry.

(a) that such acquisition is needed for the construction of some work, and

(b) that such work is likely to prove useful to the public.

(2) Such enquiry shall be held by such officer and at such time and place as the Local Government shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the <sup>1</sup> Code of Civil Procedure in the case of a Civil Court.

XIV of 1882.

41. Such officer shall report to the Local Government the result of the enquiry, and, if the Local Government is satisfied that the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public, it shall, subject to such rules as the Governor General of India in Council may from time to time prescribe in this behalf, require the Company to enter into an agreement with the Secretary of State for India in Council, providing to the satisfaction of the Local Government for the following matters, namely :—

Agreement  
with Secre-  
tary of State  
in Council.

(1) the payment to Government of the cost of the acquisition ;

(2) the transfer, on such payment, of the land to the Company ;

(3) the terms on which the land shall be held by the Company ;

(4) the time within which, and the conditions on which, the work shall be executed and maintained ; and

(5) the terms on which the public shall be entitled to use the work.

42. Every such agreement shall, as soon as may be after its execution, be published in the Gazette of India, and also in the local official Gazette, and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

Publication  
of agreement.

43. The provisions of sections 39 to 42, both inclusive, shall not apply and the corresponding sections of the <sup>2</sup> Land Acquisition Act, 1870, shall be deemed never to have applied, to the acquisition of land for any Railway or other Company, for the purposes of which, under any agreement between such Company and the Secretary of State for India in Council, the Government is, or was, bound to provide land.

X of 1870.

Sections 39  
to 42 not to  
apply where  
Government  
bound by  
agreement  
to provide  
land for  
Companies.

<sup>1</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.

<sup>2</sup> Repealed by this Act.



(Part VII.—Acquisition of Land for Companies. Part  
VIII.—Miscellaneous.)

How agree-  
ment between  
Railway  
Company and  
Secretary of  
State may be  
proved.

44. In the case of the acquisition of land for the purposes of a Railway Company, the existence of such an agreement as is mentioned in section 43 may be proved by the production of a printed copy thereof purporting to be printed by order of Government.

## PART VIII.

### MISCELLANEOUS.

Service of  
notices.

45. (1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 4, by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, this service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court-house, and also in some conspicuous part of the land to be acquired :

Provided that, if the Collector or Judge shall so direct, a notice may be sent by post, in a letter addressed to the person named therein at his last known residence, address or place of business and registered under Part III of the <sup>1</sup> Indian Post Office Act, 1866, and service of it may be proved by the produc- XIV of 186

Penalty for  
obstructing  
acquisition  
of land.

46 Whoever wilfully obstructs any person in doing any of the acts authorized by section 4 or section 8, or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both.

Magistrate  
to enforce  
surrender.

47. If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to him self, and, if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras and Bombay) to the Commissioner of Police

<sup>1</sup> See now the Indian Post Office Act, 1898 (6 of 1898), Genl. Acts, Vol. V.

## (Part VIII—Miscellaneous.)

and such Magistrate or Commissioner (as the case may be) shall enforce the surrender of the land to the Collector.

48. (1) Except in the case provided for in section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

Completion of acquisition not compulsory, but compensation to be awarded when not completed.

(2) Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.

49. (1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desire that the whole of such house, manufactory or building shall be so acquired :

Acquisition of part of house or building.

Provided that the owner may, at any time before the Collector has made his award under section 11, by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory or building shall be so acquired :

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or does not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court and shall not take possession of such land until after the question has been determined.

In deciding on such a reference the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house, manufactory or building.

(2) If, in the case of any claim under section 23, sub-section (1) *thirdly*, by a person interested, on account of the severing of the land to be acquired from his other land, the Local Government is of opinion that the claim is unreasonable or excessive, it may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

(3) In the case last hereinbefore provided for, no fresh declaration or other proceedings under sections 6 to 10, both inclusive, shall be necessary ; but the Collector shall without delay furnish a copy of the order of the Local

Government to the person interested, and shall thereafter proceed to make his award under section 11.

Acquisition of land at cost of a local authority or Company.

50. (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by local authority or of any Company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or Company.

(2) In any proceeding held before a Collector or Court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation :

Provided that no such local authority or Company shall be entitled to demand a reference under section 18.

Exemption from stamp-duty and fees.

51. No award or agreement made under this Act shall be chargeable with stamp duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

Notice in case of suits for anything done in pursuance of Act.

52. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends.

Code of Civil Procedure to apply to proceedings before Court. Appeals in proceedings before Court.

53. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the <sup>1</sup> Code of Civil Procedure shall apply to all proceedings before the Court under this Act.

XIV of 1882.

54. Subject to the provisions of the <sup>3</sup> Code of Civil Procedure applicable to appeals from original decrees, an appeal shall lie to the High Court from the award or from any part of the award of the Court in any proceedings under this Act.

XIV of 1882.

Power to make rules.

55. (1) The Local Government shall have power to make <sup>2</sup> rules consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made.

(2) The power to make, alter and add to rules under sub-section (1) shall be subject to the condition of the rules being made, altered or added to after previous publication.

(3) All such rules, alterations and additions shall, when sanctioned by the Governor General in Council, be published in the official Gazette, and shall thereupon have the force of law.

<sup>1</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.

<sup>2</sup> For rules under this section for —

(1) Ajmere-Merwara, *see* Ajmere R. and O., Vol. I.

(2) Bengal, including the districts now under E. B. and A., *see* Ben. Stat. R. and O., Vol. II.

Irrigation Manual, 1897, Vol. II.  
Land Acquisition Manual, 1902.

(3) Central Provinces, *see* Cen. Prov. R. and O.

(4) United Provinces of Agra and Oulh, *see* U. P. List of Local R. and O., Vol. I.

ACT No. III of 1894.<sup>1</sup>

[23rd February 1894.]

An Act to amend the <sup>2</sup> Code of Criminal Procedure, 1882, and the <sup>3</sup> Indian Penal Code.

I of 1882.

WHEREAS it is expedient to amend the <sup>2</sup> Code of Criminal Procedure, 1882, and the <sup>3</sup> Indian Penal Code; It is hereby enacted as follows :—

XLV of 1860.

1 to 4. [ *Amendment of the Code of Criminal Procedure, 1882.* ] Rep. by the Code of Criminal Procedure, 1898 (Act V of 1898).

<sup>3</sup> Indian Penal Code.

XLV of 1860.

5. To section 177 of the <sup>3</sup> Indian Penal Code the following shall be added, namely :—

Addition to section 177 of Indian Penal Code.

“ *Explanation.*—In section 176 and in this section the word ‘ offence ’ includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460 ; and the word ‘ offender ’ includes any person who is alleged to have been guilty of any such act.”

6. To section 203 of the said Code the following shall be added, namely :—

Addition to section 203 of same Code.

“ *Explanation.*—In sections 201 and 202 and in this section the word ‘ offence ’ includes any act committed at any place out of British India which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.”

XLV of 1860.

7. In section 212 of the <sup>3</sup> Indian Penal Code immediately before the *Exception* the following shall be inserted, namely :—

Addition to section 212 of same Code.

“ Offence ” in this section includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460 ;

<sup>1</sup> Short title, “ The Indian Criminal Law Amendment Act, 1894.” See the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1893, Pt. V, p. 97 ; for Report of the Select Committee, see *ibid*, 1894, Pt. V, p. 37 ; and for Proceedings in Council, see *ibid*, 1893, Pt. VI, p. 196 ; *ibid*, 1894, Pt. VI, pp. 21, 49 and 55.

This Act is in force in Upper Burma (except the Shan States) as being part of the principal Act 45 of 1860, declared in force there, by s. 4, and the first schedule to the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

The Act has been declared in force in the Santhál Parganas by s. 3 of the Santhál Parganas Settlement Regulation (3 of 1872), as amended by the Santhál Parganas Justice and Laws Regulation, 1899 (3 of 1899), Ben. Code, Vol. I.

<sup>2</sup> Rep. by the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

<sup>3</sup> Genl. Acts, Vol. I.

and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in British India."

Addition of  
new sections  
after section  
216 of same  
Code.

8. After section 216 of the said Code the following shall be inserted, namely :—

Penalty for  
harbouring  
robbers or  
dacoits.

" 216A. Whoever, knowing or having reason to believe that any persons are about to commit or have recently committed robbery or dacoity, harbours them or any of them, with the intention of facilitating the commission of such robbery or dacoity or of screening them or any of them from punishment shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

" *Explanation.*—For the purposes of this section it is immaterial whether the robbery or dacoity is intended to be committed, or has been committed within or without British India.

" *Exception.*—This provision does not extend to the case in which the harbour is by the husband or wife of the offender.

Definition of  
'harbour' in  
sections 212,  
216 and  
216 A.

" 216B. In sections 212, 216 and 216A the word 'harbour' includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance, or the assisting a person in any way to evade apprehension."

## THE INDIAN TARIFF ACT, 1894.

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SCHEDULE I.—ACTS REPEALED.

SCHEDULES II, III AND IV.—IMPORT TARIFF.

SCHEDULE V.—EXPORT TARIFF.

ACT No. VIII OF 1894.<sup>1</sup>

[10th March, 1894.]

## An Act to amend the law relating to Customs duties, and for other purposes.

WHEREAS it is expedient to amend the law relating to the duties of customs on goods imported and exported by sea, and to provide for the levy of duties on goods crossing the frontier of certain Foreign European Settlements in India, and of the territories of certain Native Chiefs; It is hereby enacted as follows :—

Title, extent  
and com-  
mencement.

1. (1) This Act may be called the Indian Tariff Act, 1894.

(2) It extends to the whole of British India except Aden and Perim ; and

(3) It shall come into force at once.

Repeal.

2. (1) The Acts mentioned in the first Schedule are repealed to the extent specified therein.

(2) But all notifications published, and rules and orders made, under any of those Acts, and in force immediately before the commencement of this Act, shall, so far as they are consistent herewith, be deemed to have been respectively published and made under this Act : and

(3) All references made to the <sup>2</sup> Indian Tariff Act, 1875, and the <sup>3</sup> Indian Tariff Act, 1882, in Acts or Regulations passed before the commencement of this Act, shall be deemed to be made to this Act. XVI of 1875. XI of 1882.

(4) Nothing in this Act shall authorize the levy of duties of customs on any article carried from one customs-port in British India, to another such port, except salt, opium and spirit.

Duties  
specified in  
schedules to  
be levied.

Export of  
pepper from  
Cochin.

3. There shall be levied and collected in every port to which this Act applies, the duties specified in the second, third, fourth and fifth schedules.

4. On all pepper exported by sea from the port of Cochin there shall be levied such duty not exceeding nine rupees per khandi as the Governor of Fort Saint George in Council may determine ; and at the close of each year, or as soon as thereafter as may be convenient, the Customs-Collector at the said port shall, after deducting the expenses of collection, pay the duty collected

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1894, Pt. V, p. 58 ; for Report of the Select Committee, see *ibid*, Extraordinary, dated 10th March 1894, p. 13 and for Proceedings in Council, see *ibid*, Pt. VI, pp. 71 and 96.

The Act has been declared in force in the Sonthal Parganas by s. 3 of Reg. 3 of 1872, as amended by Reg. 3 of 1899, s. 3, Ben. Code, Vol. I.

<sup>2</sup> Act 16 of 1875 was repealed by the Indian Tariff Act, 1882 (11 of 1882), s. 2.

<sup>3</sup> Act 11 of 1882 is repealed by s. (9) of this Act.

under this section to the Governments of Travancore and Cochin in such proportion and in such manner as the Governor of Fort Saint George in Council may direct.

5. (1) Duties of customs<sup>1</sup> [at such rates as may be prescribed by or under this Act, or by or under any law for the time being in force relating to customs duties on imports and exports, respectively, into and from ports shall be levied on goods passing by land out of or into]—

Duties on goods crossing certain frontiers.

(a) Foreign European Settlements in India ;

(b) any territory declared, under the power hereinafter in this section conferred, to be foreign territory.

(2) Subject to the control of the Governor General in Council, the Governor of Fort Saint George in Council and the Governor of Bombay in Council may, by notification in the local official Gazette, respectively, declare that the territory of any Native Chief situate within or bordering on, the territories respectively administered by such Governors, but not subject to the jurisdiction of the Courts and Civil authorities of such territories, shall be deemed, for the purposes of this section, to be foreign territory.

(3) The Governor General in Council may, by notification in the Gazette of India, declare that the territory of any other Native Chief shall be deemed, for the purposes of this section, to be foreign territory.

6. In <sup>2</sup>Act No. XVI of 1863, section 1, for the words “calculated at ten” the words “not exceeding five” shall be substituted.

Amendment of Act XVI, 1863, section 1.

7. (1) Salt, opium and spirit imported from any port in British India, and protected by the certificate of an officer empowered in that behalf by the Governor General in Council or the Local Government, are chargeable with only the amount, if any, by which the duty leviable thereon under the third schedule exceeds the duty shown by such certificate to have been already paid in respect thereof.

Duty on salt, opium and spirit, when protected by a certificate.

(2) The amount, if any, paid to the Government as the price of such salt or opium is not duty within the meaning of this section.

(3) Nothing in this section applies to spirit which is exported under bond for excise-duty from one customs-port to another customs-port under the provisions of Chapter XIV of the <sup>3</sup>Sea Customs Act, 1878.

VIII of 1878.

<sup>1</sup> These words were substituted for the words “shall be levied at the rates respectively prescribed in the second, third and fourth schedules on goods passing by land out of, and in the fifth schedule on goods passing by land into,” by the Indian Tea Cess Act, 1903 (9 of 1903), s. 8. Genl. Acts, Vol. V.

<sup>2</sup> The Excise (Spirits) Act, 1863, Genl. Acts, Vol. I.

<sup>3</sup> Genl. Acts, Vol. III.

Vol. IV.



Application of certain provisions as to duties and goods.

8. So far as regards the Presidency of Fort Saint George, the unrepealed provisions of <sup>1</sup>Act No. VI of 1844, and, so far as regards the Presidency of Bombay, the unrepealed provisions of <sup>2</sup>Act No. XXIX of 1857, relating to the levy of duties and to dutiable goods, shall, *mutatis mutandis*, apply to duties levied and goods liable to duty under or by virtue of section 5, sub-section (1), clause (b).

Additional import duty on bounty-fed articles.

<sup>3</sup>8A. (1) Where any country, dependency or colony pays or bestows, directly or indirectly, any bounty or grant upon <sup>4</sup>[the production therein or] the exportation therefrom of any article and the article is chargeable with duty under the provisions of this Act, then, upon the importation of any such article into British India, whether the same is imported directly from the country of production or otherwise, and whether it is imported in the same condition as when exported from the country of production or has been changed in condition by manufacture or otherwise, the Governor General in Council may, by notification in the Gazette of India, impose<sup>5</sup> an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed.

<sup>6</sup>(2) The net amount of any such bounty or grant as aforesaid shall be, from time to time, ascertained, determined and declared by the Governor General in Council, and the Governor General in Council may, by notification in the Gazette of India, make rules for the identification of such articles and for the assessment and collection of any additional duty imposed upon the importation thereof under sub-section (1).

Special import-duty on sugar in certain cases.

<sup>7</sup>8B. (1) Where the rate of duty or other taxation imposed in any country, dependency or colony upon sugar not produced therein exceeds the rate of duty or other taxation imposed upon sugar produced therein by more than the equivalent of six francs per one hundred kilogrammes in the case of refined sugar or five francs and fifty centimes per one hundred kilogrammes in the case of other sugar, then, upon the importation of any sugar from such country, dependency or colony into British India, whether the same is import-

<sup>1</sup> Mad. Code.

<sup>2</sup> For Act 29 of 1857, see Bom. Code, Vol. I.

<sup>3</sup> S. 8A was added by the Indian Tariff Amendment Act, 1899 (14 of 1899), Genl. Acts, Vol. V.

<sup>4</sup> These words were inserted by s. 2 of the Indian Tariff (Amendment) Act, 1903 (12 of 1903), Genl. Acts, Vol. V.

<sup>5</sup> For instance of such a notification imposing an additional duty, see No. 1327 S.R., dated 20th March, 1899, Genl. Stat. R. and O., Vol. III. As to remission of such duties in the case of countries parties to the Brussels Sugar Convention of 1902, see Genl. Stat. R. and O., Vol. III. As to refund of excess duty paid under the first named notification, see Gazette of India, 1900, Pt. I, p. 526. [*These notifications are subject to constant variation.*]

<sup>6</sup> For notifications under this sub-section see Genl. Stat. R. and O., Vol. III, and Gazette of India, 1902, Pt. I, p. 596.

<sup>7</sup> S. 8B was added by the Indian Tariff (Amendment) Act, 1902, (8 of 1902) s. 2. It was to remain in force until the 31st August, 1903, but was subsequently revived by the Tariff Act, 1904 (11 of 1904), s. 1, and continued in force from 1st April, 1904.

ed directly from the country of production or otherwise, and whether it is imported in the same condition as when exported from the country of production or has been changed in condition by manufacture or otherwise, the Governor General in Council may, by notification in the Gazette of India, impose,<sup>1</sup> in addition to any other duty or taxation imposed under this Act or any other law for the time being in force, a special duty not exceeding one moiety of such excess.

(2) The Governor General in Council may, from time to time, by general or special order, declare, for the purposes of sub-section (1),—

(a) what articles or substances containing any saccharine matter shall be deemed to be “sugar” and what kinds of sugar shall be deemed to be “refined sugar” or “other sugar,” respectively ; and

(b) what sums in the currency of British India shall be deemed to be the equivalent of “francs” and “centimes” respectively.

(3) The amount of the excess referred to in sub-section (1) shall be from time to time ascertained, determined and declared by the Governor General in Council, and the Governor General in Council may, by notification in the Gazette of India, make rules for the<sup>2</sup> identification of sugar and for the assessment and collection of any special duty imposed upon the importation thereof under sub-section (1).

8C. [*Continuation of duties chargeable under Section 8A or 8B on 31st August, 1905.*—*Spent.*]

9. All notifications published under this Act may be cancelled by the authority publishing the same.

10. In the event of any duty of customs or excise on any article being imposed, increased, decreased or remitted after the making of any contract for the sale of such article without stipulation as to the payment of duty where duty was not chargeable at the time of the making of the contract, or for the sale of such article duty-paid where duty was chargeable at that time,—

(a) if such imposition or increase so takes effect that the duty or increased duty, as the case may be, is paid, the seller may add so much to the contract price as will be equivalent to the duty or increase of duty, and he shall be entitled to be paid and to sue for and recover such addition, and,

Power to cancel notifications.

When contracts have been entered into, amount of increased or decreased duty to be added or deducted.

<sup>1</sup> For instance of such notification, see Genl. Stat. R. and O., Vol. III.

<sup>2</sup> For rules for the identification of sugar upon which special duty has been imposed under sub-section (1) see Genl. Stat. R. and O., Vol. III. As to rules in continuation of these, regarding certificates of production of sugar, imported from countries which are parties to the Brussels sugar Convention of 1902, see *ibid.*

- (b) if such decrease or remission so takes effect that the decreased duty only or no duty, as the case may be, is paid, the purchaser may deduct so much from the contract-price as will be equivalent to the decrease of duty, or remitted duty, and he shall not be liable to pay, or be sued, for, or in respect of, such deduction.

Amendment  
of Act VIII  
of 1878,  
section 23.

11. In the second paragraph of section 23 of the <sup>1</sup>Sea Customs Act, 1878, <sup>VIII of 1878.</sup> the words "with the previous sanction of the Governor General in Council" shall be inserted after the word "may."

### SCHEDULE I.—(ACTS REPEALED).

Number and year.	Title.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>		
XI of 1882 ...	Indian Tariff Act, 1882 ...	So much as has not been repealed.
II of 1887 ...	An Act to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882.	Section 8.
II of 1888 ...	An Act to provide for the levy of a customs duty on petroleum.	Section 1.
VIII of 1889 ...	An Act to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882.	Sections 3, 4 and 5.
XII of 1890 ...	An Act to amend the Indian Tariff Act, 1882 ...	The whole.
I of 1892 ...	An Act to amend the Indian Tariff Act, 1882 ...	Ditto.
IX of 1893 ..	An Act to amend the Indian Tariff Act, 1882, as amended by subsequent Acts.	Ditto.

<sup>1</sup>See Genl. Acts, Vol. II.

## SCHEDULE II.—(IMPORT TARIFF).

## Arms, Ammunition and Military stores.

XI of 1878.

including also any articles, other than those included in Nos. 1 to 12 of this Schedule, which are "arms" within the meaning of the <sup>2</sup>Indian Arms Act, and any articles which the Governor General in Council may, by notification in the Gazette of India, declare to be "ammunition", or "military stores" for the purposes of this Act.

Names of Articles.	Duty.
Rs. A.	
1. Firearms other than pistols, including gas and air guns and rifles, for each ... ..	50 0
2. Barrels for the same, whether single or double; for each ... \	30 0
3. Pistols, for each ... ..	15 0
4. Barrels for the same, whether single or double, for each ...	10 0
5. Springs used for firearms, including gas and air guns and rifles, for each ... ..	8 0
<sup>3</sup> 6. Gunstocks, sights, blocks and rollers, for each ...	5 0
7. Revolver breeches, for each cartridge they will carry ...	2 8
<sup>3</sup> 8. Extractors, nippers, heel-plates, pins, screws, tangs, bolts, thumb-pieces, triggers, trigger-guards, hammers, pistons, plates and all other parts of a firearm (including a gas and air gun or rifle) not herein otherwise provided for and all tools used for cleaning or putting together or loading the same, for each ... ..	1 8
9. Machines for making, loading, or closing cartridges, for each ...	10 0
10. Machines for capping cartridges, for each ... ..	2 8

*Exception I.*—Articles falling under the 5th, 6th, 8th, 9th, or 10th head of the foregoing list, when they appertain to a firearm falling under the 1st or 3rd head, and are fitted into the same case with such firearm, are free.

*Exception II.*—The following are also free, namely :—

- (a) Arms forming part of the regular equipment of an officer entitled to wear diplomatic, military, naval, or police uniform ;
- (b) a sword, a revolver, or a pair of pistols, when accompanying an officer of Her Majesty's Regular Forces, or a commissioned officer of a volunteer corps, or certified by the commandant of the corps to which such officer belongs, or, in the case of an officer not attached to any corps, by the officer commanding the station or district in which such officer is serving, to be imported by the officer for the purposes of his equipment ;
- (c) swords and revolvers which are certified by an Inspector-General of Police to be part of the ordinary equipment of members of the Police-force under his charge ;
- (d) swords forming part of the equipment of native commissioned officers of Her Majesty's Army ;
- (e) swords for presentation as army or volunteer prizes ;
- (f) arms, ammunition and military stores imported with the sanction of the Government of India for the use of any portion of the military forces of a Native State in India which may be maintained and organised for Imperial Service ;

<sup>1</sup> Schs. II, III and V were substituted for the former schedules by the Indian Tariff Act (1894) Amendment Act, 1896 (3 of 1896), *infra*.

<sup>2</sup> See Genl. Acts, Vol. II.

<sup>3</sup> For notification exempting certain accessories of firearms from so much of the duty as is in excess of ten per cent. *ad valorem*, see Gazette of India, 1903, Pt. I, p. 537.

(g) Morris tubes and patent ammunition when imported by officers commanding British and Native regiments or volunteer corps, for the instruction of their men.

*Proviso 1.*—No duty in excess of ten per cent. *ad valorem* shall be levied upon any of the articles numbered 1 to 10 in the foregoing list when they are imported in reasonable quantity, for his own private use, by any person lawfully entitled to possess the same.

*Proviso 2.*—When any articles which have been otherwise imported, and upon which duty has been levied or is leviable under numbers 1 to 10, are purchased retail from the importer by a person lawfully entitled as aforesaid, in reasonable quantity for his own private use, the importer may apply to the Customs-Collector for a refund or remission (as the case may be) of so much of the duty thereon as is in excess of ten per cent. *ad valorem*; and if such Collector is satisfied as to the identity of the articles, and that such importer is in other respects entitled to such refund or remission, he shall grant the same accordingly.

				Tariff valuation.	Rate of duty.
				R a.	
11. Gunpowder, all sorts	...	...	...	... <i>ad valo-</i>	} 10 per cent
				rem.	
12. All other sorts of arms, ammunition, and military stores				... „	

## SCHEDULE III.—(IMPORT TARIFF).

## LIQUORS, OPIUM, SALT AND SALTED FISH.

No.	Names of Articles.	Per	Rate of duty.
1	LIQUORS—		R a.
	Ale, beer and porter ...	} Imperial gallon or six quart bottles.	0 2 <sup>2</sup>
	Cider and other fermented liquors ...		
	Liqueurs ...		10 0 <sup>3</sup>
	Spirit which has been rendered effectually and permanently unfit for human consumption.	} <i>ad valorem</i> ...	Five per cent.
	Spirit when used in drugs, medicines or chemicals in a proportion of less than twenty per cent. of spirit of the strength of London proof.		
	<sup>4</sup> [Spirit when so used in a proportion of twenty per cent. and upwards.	Imperial gallon or six quart bottles of the strength of London proof.	7 0 and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.]

<sup>1</sup> See note to Sch. II, *supra*.<sup>2</sup> The figure "2" was substituted for "1" by s. 2 of the Indian Tariff (Amendment) Act, 1908 (2 of 1908), Genl. Acts, Vol. VI.<sup>3</sup> The figure "10" was substituted for "6" by s. 2 (a) of the Indian Tariff (Amendment) Act, 1906 (1 of 1906), with effect from the 26th February, 1906, *see* s. 1 (2) of that Act, Genl. Acts, Vol. VI.<sup>4</sup> This item and the two next items of Art. 1 on the next page were substituted for the original items by s. 2 (b) of the Indian Tariff (Amendment) Act, 1906 (1 of 1906), with effect from the 26th February, 1906, *see* s. 2 (b) of that Act.

The original items were as follows :—

Spirit when so used in a proportion of twenty per cent. and upwards ...	Imperial gallon of six quart bottles of the strength of London proof.	6 0 and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.;
Spirit, perfumed, in wood or in bottles ...	Imperial gallon or six quart bottles.	8 0
Spirit, other sorts ...	Imperial gallon or six quart bottles of the strength of London proof.	6 0 and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.

SCHEDULE III.—(IMPORT TARIFF)—*concl'd.*LIQUORS, OPIUM, SALT AND SALTED FISH—*concl'd.*

No.	Names of Articles.	Per	Rate of duty.
1	Liquors— <i>concl'd.</i>		
	<sup>1</sup> Spirit, perfumed, in wood or in bottles	Imperial gallon or six quart bottles.	11 0
	Spirit, other sorts ... ..	Imperial gallon or six quart bottles of the strength of London proof.	7 0 and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.]
	Wines— Champagne and all other sparkling wines not containing more than 42 per cent. of proof spirit ... ..	Imperial gallon or six quart bottles.	2 8
	All other sorts of wines not containing more than 42 per cent. of proof spirit ..	" "	1 0
	Provided that all sparkling and still wines containing more than 42 per cent. of proof spirit shall be liable to duty at the rate applicable to spirit, other sorts.		
2	Opium, not covered by a Government pass ... ..	Ser of 80 tolas ..	24 0
3	Salt ... ..	Indian maund of 82½lb. avoirdupois weight.	The rate at which excise duty is for the time being leviable on salt manufactured in the place where the import takes place.
4	Salted Fish, wet or dry ... ..	Indian maund of 82½lb. avoirdupois weight.	Such rates or rates of duty, not exceeding twelve annas as the Governor General in Council may, by notification <sup>2</sup> in the Gazette of India, from time to time prescribe.

<sup>1</sup> See the fourth note on preceding page.<sup>2</sup> For instance of such a notification, see Genl. Stat. R. and O., Vol. III.

## 1 SCHEDULE IV.—(IMPORT TARIFF).

## GENERAL DUTIES.

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Animals, living.</b>		Rs. As.	
1	HORSES, CATTLE, SHEEP, and all other living animals of all kinds . . . . .	...	...	Free.
	<b>Articles of Food and Drink.</b>			
2	COFFEE . . . . .	cwt.	35 0	Five per cent.
3	FRUITS AND VEGETABLES (except fresh fruits and vegetables not separately enumerated, which are free)—			
	Almonds without shell . . . . .	"	58 0	"
	" in the shell . . . . .	"	16 0	"
	" (kágazi) . . . . .	"	35 0	"
	Cashew or cajoo kernels . . . . .	"	19 0	"
	Cocoanuts, Straits . . . . .	thousand	60 0	"
	" other . . . . .	"	40 0	"
	" kernel (khopra) . . . . .	cwt.	15 0	"
	Currants, in cases . . . . .	"	22 0	"
	" in cans . . . . .	"	26 0	"
	" other . . . . .	"	16 0	"
	Dates, dry, in bags . . . . .	"	7 0	"
	" wet " baskets and bundles . . . . .	"	5 0	"
	" " in pots, boxes, tins and crates . . . . .	"	6 8	"
	Figs, Persian, dried . . . . .	"	8 8	"
	Garlic . . . . .	"	7 0	"
	Hops . . . . .	...	...	Free.
	Pistachio nuts . . . . .	cwt.	45 0	Five per cent.
	Prunes, Bussora (álu-Bokhara) . . . . .	"	25 0	"
	Raisins, black . . . . .	"	12 0	"
	" kishmish, Persian Gulf . . . . .	"	14 0	"
	" Munakka, " " . . . . .	"	8 0	"

<sup>1</sup> The present Schedule was substituted to give effect to notification No. 11503—6, dated 18th December 1908, Gazette of India, 1908, Pt. I, p. 1100. It succeeds more than one former schedule similarly substituted.



SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Articles of Food and Drink—<i>contd.</i></b>		Rs. As.	
3	FRUITS AND VEGETABLES (except fresh fruits and vegetables not separately enumerated, which are free)— <i>contd.</i>			
	Raisins other sorts . . . . .	...	<i>ad valorem</i>	Five per cent.
	Walnuts, Persian . . . . .	cwt.	12 0	"
	All other sorts of fruits and vegetables . . .	...	<i>ad valorem</i>	"
4	GRAIN AND PULSE, including broken grain and pulse, but not including flour . . . . .	...	...	Free.
5	MINERAL AND AERATED WATERS, and all unfermented and non-alcoholic beverages . . . . .	...	<i>ad valorem</i>	Five per cent.
6	PROVISIONS, OILMAN'S STORES, AND GROCERIES—			
	Bacon . . . . .	...	"	"
	Beef and Pork . . . . .	...	"	"
	Biche de mer . . . . .	...	"	"
	Butter . . . . .	lb.	1 4	"
	Cassava, Tapioca or Sago . . . . .	cwt.	12 0	"
	Cheese . . . . .	...	<i>ad valorem</i>	"
	China preserves in syrup . . . . .	cwt. (nett)	34 0	"
	" " dry, candied . . . . .	lb.	0 5	"
	Cocum . . . . .	cwt.	4 0	"
	Fish-maws . . . . .	...	...	Free.
	Flour . . . . .	...	<i>ad valorem</i>	Five per cent.
	Ghi . . . . .	cwt.	60 0	"
	Margarine . . . . .	lb.	1 4	"
	Pork hams . . . . .	...	<i>ad valorem</i>	"
	Shark-fins . . . . .	...	...	Free.
	Singally and sozille . . . . .	..	...	"
	Vinegar, in casks . . . . .	...	<i>ad valorem</i>	Two and one-half per cent.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Articles of Food and Drink—<i>contd.</i></b>		Rs. As.	
6	PROVISIONS, OILMAN'S STORES, AND GROCERIES — <i>contd.</i>			
	Vinegar, not in casks—			
	Persian . . . . .	Imperial gallon.	1 8	Five per cent.
	Indian . . . . .	"	0 6	"
	All other sorts of provisions, oilman's stores, and groceries . . . . .	...	<i>ad valorem</i>	"
7	SPICES—			
	Betelnuts, raw, whole, split or sliced, from Goa .	cwt.	12 0	"
	" and Dutch " East Indies " " Straits . . . . .	"	7 0	"
	Betelnuts, whole from Ceylon . . . . .	"	7 8	"
	" raw, split (sundried) " . . . . .	"	17 0	"
	" —all other sorts . . . . .	...	<i>ad valorem</i>	"
	Chillies, dry . . . . .	cwt.	10 0	"
	Cloves . . . . .	"	35 0	"
	Cloves, stems and heads . . . . .	"	7 0	"
	" in seeds, narlavang . . . . .	"	10 0	"
	Ginger, dry . . . . .	"	20 0	"
	Mace . . . . .	lb.	1 2	"
	Nutmegs . . . . .	"	0 5½	"
	" in shell . . . . .	"	0 4	"
	Pepper, black . . . . .	cwt.	28 0	"
	" white . . . . .	"	50 0	"
	All other sorts of spices . . . . .	...	<i>ad valorem</i>	"
8	SUGAR, crystallised, beet . . . . .	cwt.	10 0	"
	" " and soft, refined in China . . . . .	"	11 0	"

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
<b>Articles of Food and Drink—<i>concl'd.</i></b>				
			Rs. As.	
8	SUGAR, crystallised and soft, from Java, 21 Dutch standard and above .	cwt.	10 0	Five per cent.
	" " " " from Java, 16 to 20 Dutch standard . .	"	9 0	"
	" " " " from Java, 15 Dutch standard and under .	"	8 8	"
	" " " " from Mauritius equal to 16 Dutch standard and over . .	"	9 8	"
	Molasses from Java . . . . .	"	2 4	"
	" " other countries . . . . .	"	3 0	"
	Sugar, all other sorts, including saccharine produce of all kinds and confectionery . . . . .	...	<i>ad valorem</i>	"
9	TEA, black . . . . .	lb.	0 12	"
	" green . . . . .	"	0 14	"
<b>Chemicals, Drugs, Medicines, and Narcotics, and Dyeing and Tanning Materials.</b>				
10	CHEMICAL PRODUCTS AND PREPARATIONS—			
	Acid, sulphuric . . . . .	...	<i>ad valorem</i>	"
	Alkali, Indian (sajji-khar) . . . . .	cwt.	2 4	"
	Alum . . . . .	"	4 12	"
	Arsenic (China mansil) . . . . .	"	32 0	"
	" other sorts . . . . .	...	<i>ad valorem</i>	"
	Bicarbonate of soda . . . . .	cwt.	6 0	"
	Copperas, green . . . . .	...	<i>ad valorem</i>	Two and one-half per cent.
	Explosives, namely, blasting gelatine, dynamite, roburite, tonite, and all other descriptions, including detonators and blasting fuse . .	...	"	Five per cent.
	Sal ammoniac . . . . .	cwt.	31 0	"

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Chemicals, Drugs, Medicines, and Narcotics, and Dyeing and Tanning Materials—<i>contd.</i></b>		Rs. As.	
10	<b>CHEMICAL PRODUCTS AND PREPARATIONS—<i>contd.</i></b>			
	Sulphate of copper . . . . .	cwt.	20 0	Five per cent.
	Sulphur (brimstone), flour . . . . .	"	5 8	"
	" ( " ), roll . . . . .	"	5 4	"
	" ( " ), rough . . . . .	"	4 12	"
	All other sorts of chemical products and preparations, including saltpetre, borax, grape sugar, and glucose, but excluding nitrate of soda, muriate of potash, sulphate of ammonia, sulphate of potash, and kainit salts, which are free . . . . .	...	<i>ad valorem</i>	"
11	<b>DRUGS, MEDICINES, AND NARCOTICS—</b>			
	Aloes, black . . . . .	cwt.	30 0	"
	" Socotra . . . . .	"	17 0	"
	Aloe-wood . . . . .	lb.	9 0	"
	Anti-plague serum . . . . .	...	...	Free.
	Asafoetida (hing) . . . . .	cwt.	80 0	Five per cent.
	" coarse (hingra) . . . . .	"	28 0	"
	Atáry, Persian . . . . .	...	<i>ad valorem</i>	"
	Bánslochan (bamboo camphor) . . . . .	lb.	0 5	"
	Brimstone (amalsára) . . . . .	cwt.	20 0	"
	Calumba root . . . . .	"	7 0	"
	Camphor, refined, cake . . . . .	lb.	1 14	"
	" partially refined, cake, in blocks of about 18 lbs. . . . .	"	1 6	"
	" in powder . . . . .	...	<i>ad valorem</i>	"
	Cassia lignea . . . . .	cwt.	30 0	"
	China root (chobehini), rough . . . . .	"	8 0	"
	" " ( " ), scraped . . . . .	"	15 0	"

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Chemicals, Drugs, Medicines, and Narcotics, and Dyeing and Tanning Materials—<i>contd.</i></b>		Rs. As.	
11.	<b>DRUGS, MEDICINES, AND NARCOTICS—<i>contd.</i></b>			
	Cocaine . . . . .	...	<i>ad valorem</i>	Five per cent.
	Cubebs . . . . .	cwt.	40 0	"
	Galangal, China . . . . .	"	5 8	"
	Pellitory (akalkara) . . . . .	...	<i>ad valorem</i>	"
	Peppermint crystals . . . . .	...	"	"
	Quinine and other alkaloids of cinchona . . . . .	...	...	Free.
	Salep . . . . .	cwt.	220 0	Five per cent.
	Senna leaves . . . . .	"	6 8	"
	Storax, liquid (rose melloes or salaras) . . . . .	"	35 0	"
	Tobacco, unmanufactured . . . . .	...	...	Free.
	" manufactured excluding cigarettes . . . . .	...	<i>ad valorem</i>	Five per cent.
	" " Cigarettes of a value not exceeding Rs. 8 per thousand . . . . .	lb.	2 0	"
	" " Cigarettes of a value exceeding Rs. 8 per thousand . . . . .	"	7 8	"
	All other sorts of drugs, medicines, and narcotics, except opium (for which see Schedule III) . . . . .	...	<i>ad valorem</i>	"
12.	<b>DYEING AND TANNING MATERIALS—</b>			
	Alizarine dye, dry, 40 per cent. . . . .	lb.	1 4½	"
	" " " 50 " . . . . .	"	1 8½	"
	" " " 60 " . . . . .	"	1 12	"
	" " " 70 " . . . . .	"	2 0½	"
	" " " 80 " . . . . .	"	2 4½	"
	" " " 100 " . . . . .	"	2 12	"
	" " moist, 10 " . . . . .	"	0 4½	"

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per.	Tariff Valuation.	Duty.
	<b>Chemicals, Drugs, Medicines, and Narcotics, and dyeing and Tanning Materials—<i>concl'd.</i></b>		Rs. As.	
12	<b>DYEING AND TANNING MATERIALS—<i>contd.</i></b>			
	Alizarine dye, moist, 16 per cent. . . . .	lb.	0 7	Five per cent.
	„ „ „ 20 „ . . . . .	„	0 8	„
	Aniline „ „ indigo, blue . . . . .	„	0 6½	„
	„ „ dry . . . . .	„	0 14	„
	„ salts . . . . .	...	<i>ad valorem</i>	„
	Avar bark . . . . .	cwt.	3 0	„
	Buzgand (gulpista) . . . . .	„	50 0	„
	Cochineal . . . . .	lb.	1 6	„
	Gallnuts (myrabolams) . . . . .	...	<i>ad valorem</i>	„
	„ Persian . . . . .	cwt.	42 0	„
	Madder or manjit . . . . .	„	20 0	„
	Orchilla weed . . . . .	„	4 6	„
	Sappan wood and root . . . . .	...	<i>ad valorem</i>	„
	Turmeric . . . . .	...	„	„
	All other sorts of dyeing and tanning materials . . . . .	...	„	„
	<b>Metals and Manufactures of Metals.</b>			
13	<b>HARDWARE AND CUTLERY</b> , including ironmongery and plated ware, and also including machines, tools, and implements to be worked by manual or animal labour. [ <i>Exceptions, which are free:</i> (i) Water-lifts, sugar mills, oil-presses, and parts thereof, and any other machines and parts of machines ordinarily used in processes of husbandry, or for the preparation for use or for sale of the products of husbandry, which the Governor General in Council may, by notification in the <i>Gazette of India</i> , exempt; (ii) the following agricultural implements, when constructed so that they can be worked by manual or animal power, namely, winnowers, threshers, mowing and reaping machines, elevators, seed-crushers, chaff-cutters, root-cutters, horse and bullock gears, ploughs, cultivators, scarifiers, harrows, clod-crushers, seed-drills, hay-tedders, and rakes; (iii) the following dairy appliances, when constructed so that they can			

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Metals and Manufactures of Metals—<i>contd.</i></b>		Rs. As.	
	be worked by manual or animal power, namely, cream separators, milk sterilizing or pasteurizing plant, milk aerating and cooling apparatus, churns, butter dryers and butter workers; (iv) the following articles used in the manufacture of cotton, namely, bobbins (warping), forks for looms, healds, heald cords, heald knitting needles, laces, lags and needles for dobbies, pickers (buffalo and others), picking bands, picking lovers, picking sticks (over and under), reed pliers, reeds, shuttles (for power looms), springs for looms, strappings, and weft forks; (v) box backs and swells and rough unshaped bobbin ends, when imported by or on behalf of a manufacturer or mill-owner, and certified by him to be intended exclusively for use in his mill]	..	<i>ad valorem</i>	Five per cent.
14	MACHINERY, namely, prime-movers and component parts thereof including boilers and component parts thereof; also including locomotive and portable engines, steam rollers, fire-engines, and other machines in which the prime-mover is not separable from the operative parts	...	...	Free.
	MACHINERY (and component parts thereof), meaning machines or sets of machines to be worked by electric, steam, water, fire or other power not being manual or animal labour or which before being brought into use, require to be fixed with reference to other moving parts; and including belting of all materials for driving machinery :	...	...	"
	Provided that the term does not include tool and implements to be worked by manual or animal labour, and provided also that only such articles shall be admitted as component parts of machinery as are indispensable for the working of the machinery and are, owing to their shape or to other special quality, not adapted for any other purpose.			
	<i>Note.</i> —Machinery and component parts thereof made of substances other than metal are included in this entry.			
15	<b>METALS</b> , unwrought and wrought, and articles made of metals—			
	Brass, orsedue and leaves, European . . .	...	<i>ad valorem</i>	Five per cent.
	" " " China . . .	...	"	"
	" patent or yellow metal, sheathing, sheets, braziers, and plates . . .	cwt.	52 0	"
	" patent or yellow metal (old) . . .	"	36 0	"

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Metals and Manufactures of Metals—<i>contd.</i></b>		Rs. As.	
15	<b>METALS, unwrought and wrought, and articles made of metals—<i>contd.</i></b>			
	Brass sheets, flat or in rolls, very thin . . . . .	cwt.	175 0	Five per cent.
	„ wire . . . . .	...	<i>ad valorem</i>	„
	„ all other sorts . . . . .	...	„	„
	Copper, bolt and bar, rolled . . . . .	...	„	„
	„ braziers, sheets, plates and sheathing . . . . .	cwt.	60 0	„
	„ nails and composition nails . . . . .	...	<i>ad valorem</i>	„
	„ old . . . . .	cwt.	48 0	„
	„ pigs, tiles, ingots, cakes, bricks, and slabs . . . . .	„	55 0	„
	„ China, white, copperware . . . . .	lb.	1 12	„
	„ foil, or dankpana, white, 10 to 11 in. × 4 to 5 in. . . . .	hundred leaves.	2 2	„
	„ foil, or dankpana, coloured, 10 to 11 in. × 4 to 5 in. . . . .	„	2 4	„
	„ wire, including phosphor-bronze . . . . .	...	<i>ad valorem</i>	„
	„ all other sorts, unmanufactured and manufactured, except current coin of the Government of India, which is free . . . . .	...	„	„
	German silver . . . . .	...	„	„
	Gold bullion and coin . . . . .	...	...	Free.
	„ leaf . . . . .	...	<i>ad valorem</i>	Five per cent.
	Iron, anchors and cables . . . . .	...	„	One per cent.
	„ Lowmoor and similar qualities, all descriptions . . . . .	...	„	„
	„ angle, T, other than Lowmoor or Swedish . . . . .	ton	100 0	„
	„ „ T, other than Lowmoor or Swedish, if galvanised, tinned, or lead-coated . . . . .	...	<i>ad valorem</i>	„
	„ bar Swedish and similar qualities . . . . .	ton	160 0	„
	„ „ „ „ „ nail-rod, round-rod, and square, under half an inch in diameter . . . . .	„	170 0	„
	„ „ other kinds . . . . .	„	105 0	„



SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Metals and Manufactures of Metals—<i>contd.</i></b>		Rs. As.	
15	<b>METALS, unwrought and wrought, and articles made of metals—<i>contd.</i></b>			
	Iron, bar other kinds nail-rod, round-rod, and square, under half an inch in diameter . . . . .	ton	110 0	One per cent.
	" " " if galvanised, tinned, or lead-coated . . . . .	...	<i>ad valorem</i>	"
	" beams, joists, pillars, girders, bridge-work, and other such descriptions of iron, imported exclusively for building purposes . . . . .	...	"	"
	" channel, including channel for carriages . . . . .	...	"	"
	" plate and sheet, Swedish and charcoal . . . . .	...	"	"
	" bars, plates, and sheets, Swedish and charcoal, if galvanised, tinned, or lead-coated . . . . .	...	"	"
	" plate, other kinds, above $\frac{1}{2}$ inch thick, and strips . . . . .	ton	110 0	"
	" sheets, other kinds, up to " " . . . . .	"	125 0	"
	" sheets (other than corrugated), plates, or strips other kinds, if galvanised, tinned, lead-coated, chequered or planished . . . . .	...	<i>ad valorem</i>	"
	" sheets, corrugated, galvanised, or black . . . . .	ton	200 0	"
	" hoop . . . . .	"	130 0	"
	" nails, rose, wire, and flat-headed . . . . .	cwt.	9 8	"
	" " other kinds, including galvanised, tinned, or lead-coated . . . . .	...	<i>ad valorem</i>	"
	" nuts and bolts, also hooks and nuts for roofing, galvanised or black . . . . .	...	"	"
	" old . . . . .	cwt.	2 0	"
	" pig . . . . .	...	<i>ad valorem</i>	"
	" pipes and tubes, including fittings therefor, such as bends, boots, elbows, tees, sockets, flanges, and the like . . . . .	...	"	"
	" rails, chairs, sleepers, and fishplates, other than those described in No. 60, also spikes (commonly known as dog spikes), switches, crossings, lever-boxes, clips, and tie-bars . . . . .	...	"	"

SCHEDULE IV. — (IMPORT TARIFF) — *contd.*GENERAL DUTIES — *contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Metals and Manufactures of Metals—<i>contd.</i></b>		Rs.   As.	
15	<b>METALS, unwrought and wrought, and articles made of metals—<i>contd.</i></b>			
	Iron rice-bowls . . . . .	...	<i>ad valorem</i>	One per cent.
	„ ridging, guttering, and continuous roofing . . . . .	...	„	„
	„ rivets and washers, all sorts . . . . .	...	„	„
	„ wire, including fencing wire and wire rope, but excluding wire-netting . . . . .	...	„	„
	„ cans, tinned, when imported containing petroleum, which is separately assessed to duty at one anna per Imperial gallon under No. 16.	can	0 3	Five per cent.
	„ all other sorts, including discs or circles and wire-netting . . . . .	...	<i>ad valorem</i>	„
	Lametta . . . . .	...	„	„
	Lead, all sorts (except sheets for tea-chests, which are free) . . . . .	...	„	„
	Quicksilver . . . . .	lb.	1 10	„
	Shot, bird . . . . .	cwt.	20 0	„
	Silver bullion or coin, except current coin of the Government of India, which is free . . . . .	...	<i>ad valorem</i>	„
	Steel, anchors and cables . . . . .	...	„	One per cent.
	„ blooms . . . . .	...	„	„
	„ angle, T . . . . .	ton	100 0	„
	„ „ „ and hoop, if galvanised, tinned, or lead-coated . . . . .	...	<i>ad valorem</i>	„
	„ (bars other than cast steel) . . . . .	ton	100 0	„
	„ „ Swedish and similar qualities . . . . .	...	<i>ad valorem</i>	„
	„ „ nail-rod, round rod, and square, under half inch in diameter . . . . .	ton	110 0	„
	„ bar, galvanised, tinned, lead-coated, planished or polished . . . . .	...	<i>ad valorem</i>	„
	„ channel, including channel for carriages . . . . .	...	„	„
	„ plates above $\frac{1}{8}$ inch thick, and strips . . . . .	ton	110 0	„

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
<b>Metals and Manufactures of Metals—<i>contd.</i></b>				
15	<b>METALS, unwrought and wrought, and articles made of metals—<i>contd.</i></b>		Rs. As.	
	Steel sheets up to $\frac{1}{8}$ inch thick . . . . .	ton	120 0	One per cent.
	„ „ (other than corrugated), plates, or strips, if galvanised, tinned, lead-coated, chequered or planished . . . . .	...	<i>ad valorem</i>	„
	„ sheets, corrugated, galvanised or black . . . . .	ton	210 0	„
	„ hoop . . . . .	„	135 0	„
	„ nails . . . . .	...	<i>ad valorem</i>	„
	„ nuts and bolts, also hooks and nuts for roofing, galvanised or black . . . . .	...	„	„
	„ old . . . . .	ton	120 0	„
	„ beams, joists, pillars, girders, bridge-work, and other such descriptions of steel, imported exclusively for building purposes . . . . .	...	<i>ad valorem</i>	„
	„ cast and blistered, including spring and tub steel . . . . .	...	„	„
	„ ridging, guttering, and continuous roofing . . . . .	...	„	„
	„ pipes and tubes, including fittings therefor, such as bends, boots, elbows, tees, sockets, flanges, and the like . . . . .	...	„	„
	„ rails, chairs, sleepers, and fishplates, other than those described in No. 60, also spikes (commonly known as dog spikes), switches, crossings, lever-boxes, clips, and tie-bars . . . . .	...	„	„
	„ rivets and washers, all sorts . . . . .	...	„	„
	„ wire, including fencing wire and wire rope, but excluding wire-netting . . . . .	...	„	„
	„ cans, tinned, when imported containing petroleum, which is separately assessed to duty at one anna per Imperial gallon under No. 16 . . . . .	can	0 3	Five per cent.
	„ all other sorts, including discs or circles and wire-netting . . . . .	...	<i>ad valorem</i>	„
	Tin, block . . . . .	cwt.	125 0	„
	„ foil, and other sorts . . . . .	...	<i>ad valorem</i>	„

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
15	<b>Metals and Manufactures of Metals—<i>concl'd.</i></b>			
	<b>METALS</b> , unwrought and wrought, and articles made of metals— <i>concl'd.</i>		Rs. As.	
	Zinc or spelter, nails . . . . .	...	<i>ad valorem</i>	One per cent.
	" " tiles or slabs, soft . . . . .	cwt	23 0	"
	" " " " hard . . . . .	"	19 0	"
	" " all other sorts, including boiler tiles . . . . .	...	<i>ad valorem</i>	
	All other sorts of metals . . . . .	...	"	"
	<b>Oils.</b>			
16	<b>PETROLEUM</b> , including also naphtha and the liquids commonly known by the names of rock-oil, Rangoon oil, Burma oil, kerosene, paraffin oil, mineral oil, petrolina, gasoline, benzol, benzoline, benzine, and any inflammable liquid which is made from petroleum, coal, schist, shale, peat or any other bituminous substance, or from any products of petroleum . . . . .	Imperial gallon	...	One anna.
	" which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer and is proved to the satisfaction of the Customs Collector to be intended for use exclusively for the batching of jute or other fibre, or for lubricating purposes. . . . .	...	<i>ad valorem</i>	Five per cent.
	" which has its flashing point at or above one hundred and fifty degrees of Fahrenheit's thermometer and is proved to the satisfaction of the Customs Collector to be intended for use exclusively as fuel or for some sanitary or hygienic purpose . . . . .	...	"	"
	Cocoanut-oil . . . . .	cwt.	25 0	"
	All other sorts of oil, animal or vegetable (including otto of all kinds), and mineral, including paraffin wax. . . . .	...	<i>ad valorem</i>	"
	<b>Other Articles, unmanufactured and manufactured.</b>			
17	<b>APPAREL</b> , including drapery, haberdashery, and millinery, and military and other uniforms and accoutrements; but excluding cotton-hosiery (for which see No. 30) and boots and shoes (for which see No. 45) and excluding also uniforms, and accoutrements appertaining thereto, imported by a public servant for his personal use, which are free . . . . .	...	"	"

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Other Articles, unmanufactured and manufactured—<i>contd.</i></b>		<b>Rs. As.</b>	
18	ART, WORKS OF, except (1) statuary and pictures intended to be put up for the public benefit in a public place, and (2) memorials of a public character intended to be put in a public place, including the materials used, or to be used, in their construction, whether worked or not, which are free . . .	...	<i>ad valorem</i>	Five per cent.
19	BAMBOOS, common, grass, hay, rushes, straw, and leaves . . .	...	...	Free.
20	BOOKS, printed, including covers for printed books, maps, charts and plans, proofs, music, and manuscripts . . .	...	...	"
21	BRISTLES AND FIBRE, for brushes and brooms . . .	...	...	"
22	BRUSHES AND BROOMS, all sorts . . .	...	<i>ad valorem</i>	Five per cent.
23	BUILDING AND ENGINEERING MATERIALS, namely, asphalt, bricks and tiles, cement of all kinds, fire-clay, earthenware piping, lime, and other kinds not otherwise described . . .	...	"	"
24	CABINET-WARE AND FURNITURE . . .	...	"	"
25	CARRIAGES AND CARTS, including motor cars, bicycles, tricycles, jinrikshas, bath chairs, perambulators, trucks, wheelbarrows, and all other sorts of conveyances, and component parts thereof, but excluding motor cars, designed to carry goods and containing a prime-mover, which are free . . .	...	"	"
26	CHINESE AND JAPANESE-WARE, including lacquered-ware, but excluding earthenware, china, and porcelain (for which see No. 32) . . .	...	"	"
27	CLOCKS, WATCHES, and other time-keepers, and parts thereof . . .	...	"	"
28	Coal, COKE, AND PATENT FUEL . . .	...	...	Free.
29	CORDAGE, Rope and Twine made of any vegetable fibre . . .	...	<i>ad valorem</i>	Five per cent.
30	COTTON, AND ARTICLES MADE OF COTTON— Cotton, raw . . .	...	...	Free.
	" twist and yarn . . .	...	...	"
	" sewing and darning thread . . .	...	...	"
	" piece-goods, hosiery, crochet cotton thread and all other manufactured cotton goods not otherwise described . . .	...	<i>ad valorem</i>	Three and one-half per cent.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Other Articles, unmanufactured and manufactured—<i>contd.</i></b>		Rs. As.	
31	EARTH, COMMON CLAY, AND SAND . . . . .	..	..	Free.
32	EARTHENWARE (except earthenware piping, for which see No 23) china, china clay, porcelain, and imita- tion or false coral . . . . .	...	<i>ad valorem</i>	Five per cent.
33	FANS OF ALL KINDS, except common palm-leaf fans, which are free.	...	"	"
34	FIREWORKS, all sorts, including fulminating-powder .	...	"	"
35	FLAX, AND ARTICLES MADE OF FLAX, including linen- thread . . . . .	...	"	"
36	FURNITURE, TACKLE, AND APPAREL, not otherwise described, for steam, sailing, rowing, and other vessels . . . . .	...	"	"
37	GUMS, GUM-RESINS, and articles made of gum or gum-resin—			
	Copal . . . . .	...	"	"
	Cutch and gambier . . . . .	cwt.	18 0	"
	Gamboge . . . . .	lb	2 0	"
	Gum Ammoniac . . . . .	cwt.	20 0	"
	„ Arabic . . . . .	"	18 0	"
	„ Bdellium . . . . .	...	<i>ad valorem</i>	"
	„ Benjamin, ras . . . . .	cwt.	20 0	"
	„ „ cowrie . . . . .	"	80 0	"
	„ Bysabol (coarse myrrh) . . . . .	"	28 0	"
	„ Olibanum or frankincense . . . . .	...	...	Free.
	„ Persian (false) . . . . .	cwt.	10 0	Five per cent.
	Myrrh . . . . .	"	50 0	"
	Rosin . . . . .	"	9 0	"
	All other sorts of gums, gum-resins, and articles made of gum or gum-resin, including caoutchouc and gutta-percha . . . . .	...	<i>ad valorem</i>	"

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Other Articles, unmanufactured and manufactured—<i>contd.</i></b>			
38	HEMP, including Manila hemp, and articles made therefrom.	...	<i>ad valorem</i>	Five per cent.
39	HIDES AND SKINS (except raw or salted hides and skins, which are free), including parchment and vellum, gold-beaters' skins, and all other descriptions of hides or skins . . . . .	...	"	"
40	HORN . . . . .	...	...	Free.
	" articles made of, not otherwise described . . . . .	...	<i>ad valorem</i>	Five per cent.
41	INSTRUMENTS, APPARATUS, AND APPLIANCES, and parts thereof— Computing, Dental, Distilling, Diving, Drawing, Educational, Electric, Electric lighters, Galvanic, Measuring, Musical, Optical, Philosophical, Phonographic, Photographic (including materials for Photography), Scientific, Surgical, Surveying, Telegraphic, Telephonic, Typewriters, and all other sorts, except Telegraphic instruments and apparatus, and parts thereof, when imported by or under the orders of a railway company, and any instruments, apparatus, and appliances when imported by a passenger as part of his personal baggage and in actual use by him in the exercise of his profession or calling, which are free. All band instruments (other than stringed instruments), imported by a Native regiment of His Majesty's regular forces in India, or by a unit of the Imperial Service Troops, or by a Military Police Battalion, and certified by the officer commanding the regiment or unit or the officer in charge of the Military Police Battalion to be for the <i>bonâ fide</i> exclusive use of the regimental band, or the band attached to the Military Police Battalion, as the case may be, and the following accessories thereto, are also free of duty :—  Bags for bagpipes.      Crooks. Cardholders.              Drums for bagpipes. Carriages (brown or black).      Drum heads. Cases for reeds and mouthpieces.      Drum sticks. Cases (leather or wooden).      Drum flesh hoops. Chanters, pipe, and practice.      Fingertops. Cleaners for brass and reed instruments.      Green broadcloth for drums. Cord for bagpipes.              Green silk ribbon for drums. Key pads for reed instruments.			

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
			Rs. As.	
	<b>Other Articles, unmanufactured and manufactured—<i>contd.</i></b>			
41	INSTRUMENTS, APPARATUS, AND APPLIANCES, and parts thereof— <i>contd.</i>			
	Ligatures for reed instruments.      Shanks and slides for brass instruments. Mouthpieces and caps therefor.      Silver buckles for drums. Mutes for brass instruments.      Silver buttons for drums. Pipe tassels for bagpipes.      Springs. Reeds.      Snakes. Ribbons for bagpipes.      Taps for brass instruments. Ropes for drums.      Valve corks. Valve tops and needles.			
42	IVORY AND IVORY-WARE—			
	Unmanufactured—			
	Elephants' grinders . . . . .	cwt.	350 0	Five per cent.
	„ tusks (other than hollows, centres, and points) each exceeding 20 lbs. in weight, and hollows, centres, and points each weighing 10 lbs. and over . . . . .	„	950 0	„
	Elephants' tusks (other than hollows, centres, and points) not less than 10 lbs. and not exceeding 20 lbs. each and hollows, centres, and points each weighing less than 10 lbs . . . . .	„	850 0	„
	Elephants' tusks, each less than 10 lbs. (other than hollows, centres, and points).	„	550 0	„
	Sea-cow or moye teeth, each not less than 4 lbs. .	„	250 0	„
	„ „ „ 3 lbs. and under 4 lbs.	„	215 0	„
	„ „ „ less than 3 lbs. . . . .	„	150 0	„
	All other sorts, manufactured and unmanufactured	...	<i>ad valorem</i>	„
43	JEWELLERY AND JEWELS, including plate and other manufactures of gold and silver—			
	Silver-ware, plain . . . . . } other than European { „ embossed or chased }	tola	1 2	„
		„	1 6	„
	All other sorts, except precious stones and pearls, unset, which are free . . . . .	..	<i>ad valorem</i>	„



SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
			Rs. As.	
	<b>Other Articles, unmanufactured and manufactured—<i>contd.</i></b>			
44	JUTE, raw . . . . .	...	...	Free.
	„ articles made of, except second-hand or used gunny bags, which are free . . . . .	...	<i>ad valorem</i>	Five per cent.
45	LEATHER, and articles made of leather, including boots and shoes, harness and saddlery, except saddlery of a military pattern imported by an officer of His Majesty's regular forces and forming part of the equipment with which he is required to supply himself under Army Regulations, which is free . . . . .	...	„	„
46	MALT . . . . .	...	„	„
47	MANURES of all kinds, including animal bones . . . . .	...	...	Free.
48	OILCAKE, also bran, fodder, and cattle-food of all kinds . . . . .	...	...	„
49	OIL-CLOTH, AND FLOOR-CLOTH, including lincrusta, olm, and tarpaulins . . . . .	...	<i>ad valorem</i>	Five per cent.
50	PAINTS, COLOURS, PAINTERS' MATERIALS, and compositions for application to leather, wood, and metals—			
	Lead, red, dry . . . . .	cwt.	17 0	„
	„ white, dry . . . . .	„	18 0	„
	Ochre, other than European, all colours . . . . .	„	2 12	„
	Paints, composition . . . . .	...	<i>ad valorem</i>	„
	„ patent driers . . . . .	...	„	„
	Turpentine . . . . .	Imperial gallon.	3 0	„
	Verdigris . . . . .	...	<i>ad valorem</i>	„
	Vermillion, Canton . . . . .	box of 90 bundles.	105 0	„
	Zinc, white, dry . . . . .	...	<i>ad valorem</i>	„
	All other sorts, including glue and putty . . . . .	...	„	„

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Other Articles, unmanufactured and manufactured—<i>contd.</i></b>		Rs. As.	
51	PAPER, PASTEBOARD, MILLBOARD, AND CARDBOARD of all kinds, including ruled or printed forms and account and manuscript books, labels, advertising circulars, sheet or card almanacs, and calendars, Christmas, Easter, and other cards, including cards in booklet form, including also waste papers and old newspapers for packing, but excluding trade catalogues and advertising circulars imported by packet, book or parcel post, which are free.	...	<i>ad valorem</i>	Five per cent.
	„ articles made of paper and papier-mâché . . .	...	„	„
52	<b>PERFUMERY—</b>			
	Gowla, husked and unhusked . . . . .	cwt.	40 0	„
	Kapurkachri (zedoary) . . . . .	„	15 0	„
	Patch leaves (patchouli) . . . . .	„	19 0	„
	Rose-flowers, dried . . . . .	„	20 0	„
	Rose-water . . . . .	Imperial gallon.	2 6	„
	All other sorts, except perfumed spirit (for which see Schedule III).	...	<i>ad valorem</i>	„
53	<b>PITCH, TAR, AND DAMMER—</b>			
	Bitumen . . . . .	...	„	„
	Dammer . . . . .	...	„	„
	Pitch, American and European . . . . .	...	„	„
	„ coal . . . . .	...	„	„
	Tar, American and European . . . . .	...	„	„
	„ coal . . . . .	...	„	„
	„ mineral . . . . .	...	„	„
54	<b>PLANTS AND BULBS, living, also dried for herbaria .</b>	...	...	<b>Free.</b>
55	<b>PRECIOUS STONES AND PEARLS, unset (including the stones generically known as Cambay stones, such as agates, cornelians, and onyx) . . . . .</b>	...	...	„
56	<b>PULP of wood, straw, rags, paper, and other materials</b>	...	...	„

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Other Articles, unmanufactured and manufactured—<i>contd.</i></b>		Rs. As.	
557	PRINTING AND LITHOGRAPHING MATERIAL, namely, presses, type, ink, brass rules, composing sticks, chases, imposing tables, and lithographic stones, stereo-blocks, roller moulds, roller frames and stocks, roller composition, standing screw and hotpresses, perforating machines, gold-blocking presses, stereo-typing apparatus, metal furniture, paper folding machines and paging and numbering machines, but not including paper . . . . .	...	...	Free.
58	RAGS . . . . .	...	...	"
59	RACKS for the withering of tea leaf . . . . .	...	..	"
60	RAILWAY MATERIAL for permanent-way and rolling-stock, namely, cylinders, girders, and other material for bridges, rails, sleepers, bearing and fish-plates, fish-bolts, chairs, spikes, crossings, sleeper fastenings, switches, interlocking apparatus, brake gear, couplings and springs, signals, turn-tables, weigh-bridges, engines, tenders, carriages, wagons, traversers, trollies, trucks, and component parts thereof; also the following articles when imported by or under the orders of a railway company, namely, cranes, water cranes, water tanks, and standards, wire and other materials for fencing . . . . .	...	...	"
	Provided that for the purpose of this exemption "railway" means a line of railway subject to the provisions of the Indian Railways Act, 1890, and includes a railway constructed in a Native State, under the suzerainty of His Majesty, and also such tramways as the Governor General in Council may, by notification in the Gazette of India, specifically include therein.			
61	SEEDS—except oil-seeds imported into British India by sea from the territories of any Native Prince or Chief of India which are free—			
	All sorts . . . . .	..	<i>ad valorem</i>	Five per cent.
62	SHELLS AND COWRIES—			
	Chanks—large shells, for cameos . . . . .	...	"	"
	"    white, live . . . . .	...	"	"
	"    "    dead . . . . .	...	"	"
	Cowras . . . . .	...	"	"
	Cowries, bazar, common . . . . .	cwt.	8 12	"

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Other Articles, unmanufactured and manufactured—<i>contd.</i></b>			
			Rs. As.	
	Cowries yellow, superior quality . . . . .	cwt.	5 0	Five per cent.
	„ Maldivé . . . . .	„	5 8	„
	„ sankhla . . . . .	„	70 0	„
	Mother-of-pearl, nacre . . . . .	...	...	Free.
	Nakhla . . . . .	cwt.	100 0	Five per cent.
	Tortoise-shell . . . . .	lb.	12 0	„
	„ nakh . . . . .	„	5 0	„
	All other sorts, including articles made of shell, not otherwise described.	...	<i>ad valorem</i>	„
63	SHIPS AND OTHER VESSELS for inland and harbour navigation, including steamers, launches, boats, and barges, imported entire or in sections . . . . .	...	...	Free.
64	SILK AND ARTICLES MADE OF SILK—			
	Bokhara . . . . .	lb.	9 0	Five per cent.
	Floss . . . . .	...	<i>ad valorem</i>	„
	Piece-goods . . . . .	...	„	„
	Sewing thread, China . . . . .	...	„	„
	Raw silk—Chaharam, Indo-China, and yellow Shanghai.	lb.	5 0	„
	Mathow . . . . .	„	2 12	„
	Other kinds of China including re-reeled silk.	„	6 8	„
	Waste and Kachra . . . . .	...	<i>ad valorem</i>	„
	Panjam . . . . .	lb.	2 0	„
	Persian . . . . .	„	4 8	„
	Siam . . . . .	„	2 4	„
	All other sorts, including cocoons . . . . .	...	<i>ad valorem</i>	„
65	SOAP . . . . .	...	„	„

SCHEDULE IV.—(IMPORT TARIFF)—*concl'd.*GENERAL DUTIES—*concl'd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Other Articles, unmanufactured and . manufactured—<i>concl'd.</i></b>			
66	SPECIMENS ILLUSTRATIVE OF NATURAL SCIENCE, including also antique coins and medals . . . . .	...	..	Free.
67	STATIONERY, excluding paper (for which see No. 51) . . . . .	...	<i>ad valorem</i>	Five per cent.
68	STONE AND MARBLE, and articles made of stone and marble . . . . .	...	"	"
69	TALLOW AND GREASE, including stearine . . . . .	...	"	"
70	TEA CHESTS of metal or wood, whether imported entire or in sections, provided that the Customs Collector is satisfied that they are imported for the purpose of the packing of tea for transport in bulk . . . . .	...	...	Free.
71	TEXTILE FABRICS not otherwise described . . . . .	...	<i>ad valorem</i>	Five per cent.
72	TOILET REQUISITES not otherwise described . . . . .	...	"	"
73	TOYS, including toy-books, and requisites for all games . . . . .	...	"	"
74	UMBRELLAS, parasols, and sun-shades of all kinds . . . . .	...	"	"
75	WALKING STICKS and sticks for umbrellas, parasols, and sun-shades of all kinds, mounted and unmounted, driving, riding, and other whips, fishing rods and lines . . . . .	...	"	"
76	WOOD AND TIMBER (except fire-wood, which is free), and articles made of wood not otherwise described . . . . .	...	"	"
77	WOOL, raw . . . . .	...	...	Free.
	" articles made of, including felt . . . . .	...	<i>ad valorem</i>	Five per cent.
78	ALL OTHER ARTICLES, manufactured or unmanufactured, not described in this Schedule . . . . .	...	"	"

<sup>1</sup> SCHEDULE V.—(EXPORT TARIFF).

Name of Article.	Rate of duty.
Rice, husked or un-husked, including rice-flour, but not including rice-bran and rice-dust, which are free.	Three annas per Indian maund of 82 $\frac{3}{4}$ lb. avoirdupois weight.

<sup>1</sup> Schedule V was substituted for the former schedule by the Indian Tariff Act (1894) Amendment Act, 1896 (3 of 1896), *infra*.

## THE PRISONS ACT, 1894.

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## ENACTMENTS REPEALED.

ACT No. IX of 1894.<sup>1</sup>

[22nd March, 1894.]

## An Act to amend the law relating to Prisons.

WHEREAS it is expedient to amend the law relating to prisons in British India, and to provide rules for the regulation of such prisons; It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

Title, extent  
and com-  
mencement.

1. (1) This Act may be called the Prisons Act, 1894.
- (2) It extends to the whole of British India, inclusive of <sup>2</sup> \* \* \* British Baluchistan, the Sonthal Parganas and the Pargana of Spiti; and
- (3) It shall come into force on the first day of July 1894.
- (4) Nothing in this Act shall apply to civil jails in the Presidency of Bombay outside the city of Bombay, and those jails shall continue to be administered under the provisions of sections 9 to 16 (both inclusive) of <sup>3</sup> Bombay Act II of 1874, as amended by subsequent enactments.

Repeal.

- <sup>4</sup> 2. (1) On and after the said first day of July, 1894, the enactments mentioned in the schedule shall be repealed to the extent specified in the fourth column thereof.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1894, Pt. V, p. 14; for Report of the Select Committee, see *ibid.*, p. 63 and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 10, 21, 93, 126 and 139.

The Act was declared in force in Upper Burma, by the Burma Laws Act, 1898 (13 of 1898), Bur. Code, in the Sonthal Parganas, Reg. 3 of 1872, s. 3, as amended by Reg. 3 of 1899, s. 3, Ben. Code, Vol. I.

The Act has been declared, by notification under s. 5 of the Angul District Regulation, 1894 (1 of 1894), to be in force in the District of Angul, see Calcutta Gazette, 1901, Pt. I, p. 1534.

<sup>2</sup> The words "Upper Burma" were repealed by the Burma Laws Act, 1898 (13 of 1898), see the Fifth Schedule.

<sup>3</sup> Bom. Code, Vol. II.

<sup>4</sup> So much of this section and of the Schedule, as relates to the Upper Burma Laws Act, 1886 (20 of 1886), has been repealed by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

(2) But all rules and appointments made, directions given and orders issued under any of those enactments shall, so far as they are consistent with this Act, be deemed to have been respectively made, given and issued under this Act.

(3) Any enactment or document referring to any of those enactments shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

### 3. In this Act—

Definitions.

(1) "prison" means any jail or place used permanently or temporarily under the general or special orders of a Local Government for the detention of prisoners, and includes all lands and buildings appurtenant thereto, but does not include—

(a) any place for the confinement of prisoners who are exclusively in the custody of the police ;

(b) any place specially appointed by the Local Government under section 541 of the <sup>1</sup> Code of Criminal Procedure, 1882 ; or

(c) any place which has been declared by the Local Government, by general or special order, to be a subsidiary jail ;

(2) "criminal prisoner" means any prisoner duly committed to custody under the writ, warrant or order of any Court or authority exercising criminal jurisdiction, or by order of a Court-martial :

(3) "convicted criminal prisoner" means any criminal prisoner under sentence of a Court or Court-martial, and includes a person detained in prison under the provisions of Chapter VIII of the <sup>1</sup> Code of Criminal Procedure, 1882, or under the <sup>2</sup> Prisoners Act, 1871 :

(4) "civil prisoner" means any prisoner who is not a criminal prisoner :

(5) "remission system" means the rules for the time being in force regulating the award of marks to, and the consequent shortening of sentences of, prisoners in jails :

(6) "history-ticket" means the ticket exhibiting such information as is required in respect of each prisoner by this Act or the rules thereunder :

(7) "Inspector General" means the Inspector General of Prisons :

(8) "Medical Subordinate" means an Assistant Surgeon, Apothecary or qualified Hospital Assistant : and

(9) "prohibited article" means an article the introduction or removal of which into or out of a prison is prohibited by any rule under this Act.

<sup>1</sup> See now the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

<sup>2</sup> Genl. Acts, Vol. II.

X of 1882.

X of 1882.  
V of 1871.

(Chap. II.—Maintenance and Officers of Prisons. Chap. III.—Duties of Officers.)

## CHAPTER II.

### MAINTENANCE AND OFFICERS OF PRISONS.

Accommodation for prisoners.

4. The Local Government shall provide, for the prisoners in the territories under such Government, accommodation in prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners.

Inspector General.

5. An Inspector General<sup>1</sup> shall be appointed for the territories subject to each Local Government, and shall exercise, subject to the orders of the Local Government, the general control and superintendence of all prisons situated in the territories under such Government.

Officers of prisons.

6. For every prison there shall be a Superintendent, a Medical Officer (who may also be the Superintendent), a Medical Subordinate, a Jailer and such other officers as the Local Government thinks necessary :

Provided that the Governor of Bombay in Council may, with the previous sanction of the Governor General in Council, declare by order in writing that in any prison specified in the order the office of Jailer shall be held by the person appointed to be Superintendent.

Temporary accommodation for prisoners.

7. Whenever it appears to the Inspector General that the number of prisoners in any prison is greater than can conveniently or safely be kept therein, and it is not convenient to transfer the excess number to some other prison,

or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made, by such officer and in such manner as the Local Government may direct, for the shelter and safe custody in temporary prisons of so many of the prisoners as cannot be conveniently or safely kept in the prison.

## CHAPTER III.

### DUTIES OF OFFICERS.

#### *Generally.*

Control, and duties of officers of prisons.

8. All officers of a prison shall obey the directions of the Superintendent; all officers subordinate to the Jailer shall perform such duties as may be imposed on them by the Jailer with the sanction of the Superintendent or be prescribed by rules under section 60.

<sup>1</sup> For notification appointing an Inspector General for the N.-W. F. P., see Gazette of India, 901, Pt. II, p. 1305, and for Coorg, see Coorg R. and O. (List).

## (Chap. III.—Duties of Officers.)

9. No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner or have any money or other business dealings directly or indirectly with any prisoner.

Officers not to have business dealings with prisoners.

10. No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison : nor shall he derive any benefit, directly or indirectly, from the sale or purchase of any article on behalf of the prison or belonging to a prisoner.

Officers not to be interested in prison-contracts.

*Superintendent.*

11. (1) Subject to the orders of the Inspector General, the Superintendent shall manage the prison in all matters relating to discipline, labour, expenditure, punishment and control.

Superintendent.

(2) Subject to such general or special directions as may be given by the Local Government, the Superintendent of a prison other than a central prison or a prison situated in a presidency-town shall obey all orders not inconsistent with this Act or any rule thereunder which may be given respecting the prison by the District Magistrate, and shall report to the Inspector General all such orders and the action taken thereon.

12. The Superintendent shall keep, or cause to be kept, the following records :—

Records to be kept by Superintendent.

(1) a register of prisoners admitted ;

(2) a book showing when each prisoner is to be released ;

(3) a punishment-book for the entry of the punishments inflicted on prisoners for prison-offences ;

(4) a visitors' book for the entry of any observations made by the visitors touching any matters connected with the administration of the prison ;

(5) a record of the money and other articles taken from prisoners ;

and all such other records as may be prescribed by rules under section 59 or section 60.

*Medical Officer.*

13. Subject to the control of the Superintendent, the Medical Officer shall have charge of the sanitary administration of the prison, and shall perform such<sup>1</sup> duties as may be prescribed by rules made by the Local Government under section 60.

Duties of Medical Officer.

<sup>1</sup> For rules as to Medical Officer's duties under s. 13 in the Central Provinces, see the Central Provinces Local R. and O. and in the United Provinces of Agra and Oudh, see U. P. List of Local R. and O., Vol. I.

## (Chap. III.—Duties of Officers.)

Medical  
Officer to  
report in  
certain cases.

14. Whenever the Medical Officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the Medical Officer shall report the case in writing to the Superintendent, together with such observations as he may think proper.

This report, with the orders of the Superintendent thereon, shall forthwith be sent to the Inspector General for information.

Report on  
death of  
prisoner.

15. On the death of any prisoner, the Medical Officer shall forthwith record in a register the following particulars, so far as they can be ascertained, namely :—

- (1) the day on which the deceased first complained of illness or was observed to be ill,
  - (2) the labour, if any, on which he was engaged on that day,
  - (3) the scale of his diet on that day,
  - (4) the day on which he was admitted to hospital,
  - (5) the day on which the Medical Officer was first informed of the illness,
  - (6) the nature of the disease,
  - (7) when the deceased was last seen before his death by the Medical Officer or Medical Subordinate,
  - (8) when the prisoner died, and
  - (9) (in cases where a post-mortem examination is made) an account of the appearances after death,
- together with any special remarks that appear to the Medical Officer to be required.

*Jailer.*

Jailer.

16. (1) The Jailer shall reside in the prison, unless the Superintendent permits him in writing to reside elsewhere.

(2) The Jailer shall not, without the Inspector General's sanction in writing, be concerned in any other employment.

Jailer to give  
notice of  
death of  
prisoner.

17. Upon the death of a prisoner, the Jailer shall give immediate notice thereof to the Superintendent and the Medical Subordinate.

Respon-  
sibility of  
Jailer.

18. The Jailer shall be responsible for the safe custody of the records to be kept under section 12, for the commitment warrants and all other documents confided to his care, and for the money and other articles taken from prisoners.

Jailer to be  
present at  
night.

19. The Jailer shall not be absent from the prison for a night without permission in writing from the Superintendent; but, if absent without leave—

(Chap. III.—Duties of Officers. Chap. IV.—Admission, Removal and Discharge of Prisoners.)

for a night from unavoidable necessity, he shall immediately report the fact and the cause of it to the Superintendent.

20. Where a Deputy Jailer or Assistant Jailer is appointed to a prison, he shall, subject to the orders of the Superintendent, be competent to perform any of the duties, and be subject to all the responsibilities, of a Jailer under this Act or any rule thereunder.

Powers of Deputy and Assistant Jailers.

#### *Subordinate Officers.*

21. The officer acting as gate-keeper, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search or cause to be searched any person suspected of bringing any prohibited article into or out of the prison, or of carrying out any property belonging to the prison, and, if any such article or property be found, shall give immediate notice thereof to the Jailer.

Duties of gate-keeper.

22. Officers subordinate to the Jailer shall not be absent from the prison without leave from the Superintendent or from the Jailer.

Subordinate officers not to be sent without leave.

23. Prisoners who have been appointed as officers of prisons shall be deemed **XLV of 1860.** to be public servants within the meaning of the <sup>1</sup> Indian Penal Code.

Convict officers.

### CHAPTER IV.

#### ADMISSION, REMOVAL AND DISCHARGE OF PRISONERS.

24. (1) Whenever a prisoner is admitted into prison, he shall be searched and all weapons and prohibited articles shall be taken from him.

Prisoners to be examined on admission.

(2) Every criminal prisoner shall also, as soon as possible after admission, be examined under the general or special orders of the Medical Officer, who shall enter or cause to be entered in a book, to be kept by the Jailer, a record of the state of the prisoner's health, and of any wounds or marks on his person, the class of labour he is fit for if sentenced to rigorous imprisonment, and any observations which the Medical Officer thinks fit to add.

(3) In the case of female prisoners the search and examination shall be carried out by the matron under the general or special orders of the Medical Officer.

25. All money or other articles in respect whereof no order of a competent Court has been made, and which may with proper authority be brought into

Effects of prisoners.

<sup>1</sup> Genl. Acts, Vol. I.

(Chap. IV.—*Admission, Removal and Discharge of Prisoners.* Chap. V.—*Discipline of Prisoners.*)

the prison by any criminal prisoner or sent to the prison for his use, shall be placed in the custody of the Jailer.

Removal and  
discharge of  
prisoners.

26. (1) All prisoners, previously to being removed to any other prison, shall be examined by the Medical Officer.

(2) No prisoner shall be removed from one prison to another unless the Medical Officer certifies that the prisoner is free from any illness rendering him unfit for removal.

(3) No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, nor until, in the opinion of the Medical Officer, such discharge is safe.

## CHAPTER V.

### DISCIPLINE OF PRISONERS.

Separation of  
prisoners.

27. The requisitions of this Act with respect to the separation of prisoners are as follows :—

(1) in a prison containing female as well as male prisoners, the females shall be imprisoned in separate buildings, or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the male prisoners :

(2) in a prison where male prisoners under the age of eighteen are confined, means shall be provided for separating them altogether from the other prisoners and for separating those of them who have arrived at the age of puberty from those who have not :

(3) unconvicted criminal prisoners shall be kept apart from convicted criminal prisoners ; and

(4) civil prisoners shall be kept apart from criminal prisoners.

Association  
and segregation  
of pris-  
oners.

28. Subject to the requirements of the last foregoing section, convicted criminal prisoners may be confined either in association or individually in cells or partly in one way and partly in the other.

Solitary con-  
finement.

29. No cell shall be used for solitary confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison, and every prisoner so confined in a cell for more than twenty-four hours, whether as a punishment or otherwise, shall be visited at least once a day by the Medical Officer or Medical Subordinate.

Prisoners  
under

30. (1) Every prisoner under sentence of death shall, immediately on his arrival in the prison after sentence, be searched by, or by order of, the Jailer

(Chap. VI.—*Food, Clothing and Bedding of Civil and Unconvicted Criminal Prisoners.* Chap. VII.—*Employment of Prisoners.*)

and all articles shall be taken from him which the Jailer deems it dangerous or inexpedient to leave in his possession. sentence of death.

(2) Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of a guard.

## CHAPTER VI.

### FOOD, CLOTHING AND BEDDING OF CIVIL AND UNCONVICTED CRIMINAL PRISONERS.

31. A civil prisoner or an unconvicted criminal prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources at proper hours, food, clothing, bedding or other necessities, but subject to examination and to such rules as may be approved by the Inspector General. Maintenance of certain prisoners from private sources.

32. No part of any food, clothing, bedding or other necessities belonging to any civil or unconvicted criminal prisoner shall be given, hired or sold to any other prisoner; and any prisoner transgressing the provisions of this section shall lose the privilege of purchasing food or receiving it from private sources, for such time as the Superintendent thinks proper. Restriction on transfer of food and clothing between certain prisoners.

33. (1) Every civil prisoner and unconvicted criminal prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as may be necessary. Supply of clothing and bedding to civil and unconvicted criminal prisoners.

(2) When any civil prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, shall, within forty-eight hours after the receipt by him of a demand in writing, pay to the Superintendent the cost of the clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner may be released.

## CHAPTER VII.

### EMPLOYMENT OF PRISONERS.

34. (1) Civil prisoners may, with the Superintendent's permission, work and follow any trade or profession. Employment of civil prisoners;

(2) Civil prisoners finding their own implements, and not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements or are



(Chap. VI.—*Employment of Prisoners.* Chap. VIII.—*Health of Prisoners.*)

maintained at the expense of the prison shall be subject to a deduction, to be determined by the Superintendent, for the use of implements and the cost of maintenance.

Employment  
of criminal  
prisoners.

35. (1) No criminal prisoner sentenced to labour or employed on labour at his own desire shall, except on an emergency with the sanction in writing of the Superintendent, be kept to labour for more than nine hours in any one day.

(2) The Medical Officer shall from time to time examine the labouring prisoners while they are employed, and shall at least once in every fortnight cause to be recorded upon the history-ticket of each prisoner employed on labour the weight of such prisoner at the time.

(3) When the Medical Officer is of opinion that the health of any prisoner suffers from employment on any kind or class of labour, such prisoner shall not be employed on that labour but shall be placed on such other kind or class of labour as the Medical Officer may consider suited for him.

Employment  
of criminal  
prisoners  
sentenced to  
simple im-  
prisonment.

36. Provision shall be made by the Superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such a prisoner.

## CHAPTER VIII.

### HEALTH OF PRISONERS.

Sick pris-  
oners.

37. (1) The names of prisoners desiring to see the Medical Subordinate or appearing out of health in mind or body shall, without delay, be reported by the officer in immediate charge of such prisoners to the Jailer.

(2) The Jailer shall, without delay, call the attention of the Medical Subordinate to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention, and shall carry into effect all written directions given by the Medical Officer or Medical Subordinate respecting alterations of the discipline or treatment of any such prisoner.

Record of  
directions of  
Medical  
Officers.

38. All directions given by the Medical Officer or Medical Subordinate in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by

(Chap. VIII.—*Health of Prisoners.* Chap. IX.—*Visits to Prisoners.* Chap. X.—*Offences in relation to Prisons.*)

day in the prisoner's history-ticket or in such other record as the Local Government may by rule direct, and the Jailer shall make an entry in its proper place stating in respect of each direction the fact of its having been or not having been complied with, accompanied by such observations, if any, as the Jailer thinks fit to make, and the date of the entry.

39. In every prison an hospital or proper place for the reception of sick Hospital prisoners shall be provided.

## CHAPTER IX.

### VISITS TO PRISONERS.

40. Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison of persons with whom civil or unconvicted criminal prisoners may desire to communicate, care being taken that so far as may be consistent with the interests of justice, prisoners under trial may see their duly qualified legal advisers without the presence of any other person.

Visits to civil and unconvicted criminal prisoners.

41. (1) The Jailer may demand the name and address of any visitor to a prisoner, and, when the Jailer has any ground for suspicion, may search any visitor, or cause him to be searched, but the search shall not be made in the presence of any prisoner or of another visitor.

Search of visitors.

(2) In case of any such visitor refusing to permit himself to be searched, the Jailer may deny him admission; and the grounds of such proceeding, with the particulars thereof, shall be entered in such record as the Local Government may direct.

## CHAPTER X.

### OFFENCES IN RELATION TO PRISONS.

42. Whoever, contrary to any rule under section 60, introduces or removes or attempts by any means whatever to introduce or remove, into or from any prison, or supplies or attempts to supply to any prisoner outside the limits of a prison, any prohibited article, and every officer of a prison who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from any prison, to be possessed by any prisoner, or to be supplied to any prisoner outside the limits of a prison,

Penalty for introduction or removal of prohibited articles into or from prison and communication with prisoners.

(Chap. X.—Offences in relation to Prisons. Chap. XI.—Prison-offences.)

and whoever, contrary to any such rule, communicates or attempts to communicate with any prisoner,

and whoever abets any offence made punishable by this section,

shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

Power to  
arrest for  
offence under  
section 42.

43. When any person, in the presence of any officer of a prison, commits any offence specified in the last foregoing section, and refuses on demand of such officer to state his name and residence, or gives a name or residence which such officer knows, or has reason to believe, to be false, such officer may arrest him, and shall without unnecessary delay make him over to a Police-officer, and thereupon such Police-officer shall proceed as if the offence had been committed in his presence.

Publication  
of penalties.

44. The Superintendent shall cause to be affixed, in a conspicuous place outside the prison, a notice in English and the Vernacular setting forth the acts prohibited under section 42 and the penalties incurred by their commission.

## CHAPTER XI.

### PRISON-OFFENCES.

Prison-  
offences.

45. The following acts are declared to be prison-offences when committed by a prisoner.—

- (1) such wilful disobedience to any regulation of the prison as shall have been declared by rules made under section 53 to be a prison-offence ;
- (2) any assault or use of criminal force ;
- (3) the use of insulting or threatening language ;
- (4) immoral or indecent or disorderly behaviour ;
- (5) wilfully disabling himself from labour ;
- (6) contumaciously refusing to work ;
- (7) filing, cutting, altering or removing handcuffs, fetters or bars without due authority ;
- (8) wilful idleness or negligence at work by any prisoner sentenced to rigorous imprisonment ;
- (9) wilful mismanagement of work by any prisoner sentenced to rigorous imprisonment ;
- (10) wilful damage to prison-property ;
- (11) tampering with or defacing history-tickets, records or documents ;
- (12) receiving, possessing or transferring any prohibited article ;

## (Chap. XI.—Prison-offences.)

- (13) feigning illness ;
- (14) wilfully bringing a false accusation against any officer or prisoner ;
- (15) omitting or refusing to report, as soon as it comes to his knowledge, the occurrence of any fire, any plot or conspiracy, any escape, attempt or preparation to escape, and any attack or preparation for attack upon any prisoner or prison-official ; and
- (16) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

46. <sup>1</sup>The Superintendent may examine any person touching any such offence, and determine thereupon, and punish such offence by—

Punishment  
of such  
offences.

- (1) a formal warning :

*Explanation.*—A formal warning shall mean a warning personally addressed to a prisoner by the Superintendent and recorded in the punishment-book and on the prisoner's history-ticket ;

- (2) change of labour to some more irksome or severe form ;
- (3) hard labour for a period not exceeding seven days in the case of convicted criminal prisoners not sentenced to rigorous imprisonment ;
- (4) such loss of privileges admissible under the remission system for the time being in force as may be prescribed by rules made by the Governor General in Council ;
- (5) the substitution of gunny or other coarse fabric for clothing of other material, not being woollen, for a period which shall not exceed three months ;
- (6) imposition of handcuffs of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the Governor General in Council ;
- (7) imposition of fetters of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the Governor General in Council ;

- (8) separate confinement for any period not exceeding six months :

*Explanation.*—Separate confinement means such confinement with or without labour as secludes a prisoner from communication with, but not from sight of, other prisoners, and allows him not less than one hour's exercise per diem and to have his meals in association with one or more other prisoners ;

- (9) penal diet,—that is, restriction of diet in such manner and subject to

<sup>1</sup> For rules issued with reference to clauses (4), (6) and (7) of section 46, see Genl. Stat. B. and O., Vol. III.

## (Chap. XI.—Prison-offences.)

such conditions regarding labour as may be prescribed by the Local Government :

Provided that such restriction of diet shall in no case be applied to a prisoner for more than ninety-six consecutive hours, and shall not be repeated except for a fresh offence nor until after an interval of one week ;

- (10) cellular confinement for any period not exceeding fourteen days :

Provided that after each period of cellular confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to cellular or solitary confinement :

\* *Explanation.*—Cellular confinement means such confinement with or without labour as entirely secludes a prisoner from communication with, but not from sight of, other prisoners :

- (11) solitary confinement for any period not exceeding seven days :

Provided that after each period of solitary confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to solitary or cellular confinement :

*Explanation.*—Solitary confinement means such confinement with or without labour as entirely secludes the prisoner both from sight of, and communication with, other prisoners ;

- (12) penal diet as defined in clause (9) combined with solitary confinement as defined in clause (11) ;

- (13) whipping, provided that the number of stripes shall not exceed thirty :

Provided that nothing in this section shall render any female or civil prisoner liable to the imposition of any form of handcuffs or fetters, or to whipping.

47. Any two of the punishments enumerated in the last foregoing section may be awarded for any such offence in combination, subject to the following exceptions, namely :—

- (1) formal warning shall not be combined with any other punishment except loss of privileges under clause (4) of that section ;
- (2) penal diet shall not be combined with change of labour under clause (2) of that section, nor shall any additional period of penal diet awarded singly be combined with any period of penal diet awarded in combination with solitary confinement ;
- (3) solitary confinement shall not be combined with cellular confinement or with separate confinement, nor cellular confinement with separate confinement, so as to prolong the total period of seclusion to which the prisoner shall be liable ;

*(Chap. XI.—Prison-offences.)*

- (4) whipping shall not be combined with any other form of punishment except cellular or separate confinement and loss of privileges admissible under the remission system.

48. (1) The Superintendent shall have power to award any of the punishments enumerated in the two last foregoing sections, subject, in the case of separate confinement for a period exceeding one month, to the previous confirmation of the Inspector General.

Award of punishments under section 46 and 47.

(2) No officer subordinate to the Superintendent shall have power to award any punishment whatever.

49. Except by order of a Court of Justice, no punishment other than the punishments specified in the foregoing sections shall be inflicted on any prisoner, and no punishment shall be inflicted on any prisoner otherwise than in accordance with the provisions of those sections.

Punishments to be in accordance with foregoing sections.

50. (1) No punishment of penal diet, either singly or in combination, or of whipping, or of change of labour under section 46, clause (2), shall be executed until the prisoner to whom such punishment has been awarded has been examined by the Medical Officer, who, if he considers the prisoner fit to undergo the punishment, shall certify accordingly in the appropriate column of the punishment-book prescribed in section 12.

Medical Officer to certify to fitness of prisoner for punishment.

(2) If he considers the prisoner unfit to undergo the punishment, he shall in like manner record his opinion in writing and shall state whether the prisoner is absolutely unfit for punishment of the kind awarded, or whether he considers any modification necessary.

(3) In the latter case he shall state what extent of punishment he thinks the prisoner can undergo without injury to his health.

51. (1) In the punishment-book prescribed in section 12 there shall be recorded, in respect of every punishment inflicted, the prisoner's name, register number and the class (whether habitual or not) to which he belongs, the prison-offence of which he was guilty, the date on which such prison-offence was committed, the number of previous prison-offences recorded against the prisoner, and the date of his last prison-offence, the punishment awarded, and the date of infliction.

Entries in punishment-books.

(2) In the case of every serious prison-offence, the names of the witnesses proving the offence shall be recorded, and, in the case of offences for which whipping is awarded, the Superintendent shall record the substance of the evidence of the witnesses, the defence of the prisoner, and the finding with the reasons therefor.

(3) Against the entries relating to each punishment the Jailer and Superintendent shall affix their initials as evidence of the correctness of the entries.

(Chap. XI.—Prison-offences. Chap. XII.—Miscellaneous.)

Procedure on  
committal  
of heinous  
offence.

52. If any prisoner is guilty of any offence against prison-discipline which, by reason of his having frequently committed such offences or otherwise, in the opinion of the Superintendent, is not adequately punishable by the infliction of any punishment which he has power under this Act to award, the Superintendent may forward such prisoner to the Court of the District Magistrate or of any Magistrate of the 1st class having jurisdiction, together with a statement of the circumstances, and such Magistrate shall thereupon inquire into and try the charge so brought against the prisoner, and upon conviction, may sentence him to imprisonment which may extend to one year, such term to be in addition to any term for which such prisoner was undergoing imprisonment when he committed such offence, or may sentence him to any of the punishments enumerated in section 46 :

Provided that the District Magistrate may transfer the case for inquiry and trial to any Magistrate of the first class : and

Provided also that no person shall be punished twice for the same offence.

Whipping.

53. (1) No punishment of whipping shall be inflicted in instalments, or except in the presence of the Superintendent and Medical Officer or Medical Subordinate.

(2) Whipping shall be inflicted with a light ratan not less than half an inch in diameter on the buttocks, and in case of prisoners under the age of sixteen it shall be inflicted, in the way of school discipline, with a lighter ratan.

Offences by  
prison subor-  
dinates.

<sup>1</sup> 54. (1) Every Jailer or officer of a prison subordinate to him who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent authority, or who shall withdraw from the duties of his office without permission, or without having given previous notice in writing of his intention for the period of two months, or who shall wilfully overstay any leave granted to him, or who shall engage without authority in any employment other than his prison-duty, or who shall be guilty of cowardice, shall be liable, on conviction before a Magistrate, to fine not exceeding two hundred rupees, or to imprisonment for a period not exceeding three months, or to both.

(2) No person shall under this section be punished twice for the same offence.

## CHAPTER XII.

### MISCELLANEOUS.

Extramural

55. A prisoner, when being taken to or from any prison in which he may

<sup>1</sup> For rules for control and management of Civil Jails in the United Provinces, see U. P. List of Local R. & O., Vol. I.

*(Chap. XII.—Miscellaneous.)*

be lawfully confined, or whenever he is working outside or is otherwise beyond the limits of any such prison in or under the lawful custody or control of a prison-officer belonging to such prison, shall be deemed to be in prison and shall be subject to all the same incidents as if he were actually in prison.

custody,  
control and  
employment  
of prisoners.

56. Whenever the Superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, he may, subject to such rules and instructions as may be laid down by the Inspector General with the sanction of the Local Government, so confine them.

Confinement  
in irons.

57. (1) Prisoners under sentence of transportation may, subject to any rules made under section 60, be confined in fetters for the first three months after admission to prison.

Confinement  
of prisoners  
under sen-  
tence of  
transportation  
in irons.

(2) Should the Superintendent consider it necessary, either for the safe custody of the prisoner himself or for any other reason, that fetters should be retained on any such prisoner for more than three months, he shall apply to the Inspector General for sanction to their retention for the period for which he considers their retention necessary, and the Inspector General may sanction such retention accordingly.

58. No prisoner shall be put in irons or under mechanical restraint by the Jailer of his own authority, except in case of urgent necessity, in which case notice thereof shall be forthwith given to the Superintendent.

Prisoners not  
to be ironed  
by Jailer  
except under  
necessity.  
Power to  
make rules.

<sup>1</sup>59. The Governor General in Council may for any part of British India, and each Local Government with the previous sanction of the Governor General in Council may for the territories under its administration, make rules consistent with this Act—

- (1) defining the acts which shall constitute prison-offences ;
- (2) determining the classification of prison-offences into serious and minor offences ;
- (3) fixing the punishments admissible under this Act which shall be awardable for commission of prison-offences or classes thereof ;
- (4) declaring the circumstances in which acts constituting both a prison-offence and an offence under the Indian Penal Code may or may not be dealt with as a prison-offence ;
- (5) for the award of marks and the shortening of sentences ;

XLV of 1860

<sup>1</sup> For rules by the Governor General in Council under clauses (1) and (5) to (6), see Genl. Stat. E. & O., Vol. III.

For rules by the Govt. of Madras under ss. 59 and 60, see Mad. R. & O. (List in Vol. I).

<sup>2</sup> Genl. Acts, Vol. I.



- (6) regulating the use of <sup>1</sup> arms against any prisoner or body of prisoners in the case of an outbreak or attempt to escape ;
- (7) defining the <sup>2</sup> circumstances and regulating the conditions under which prisoners in danger of death may be released ;
- (8) regulating the transfer from one part of British India to another of prisoners whose term of transportation or imprisonment is about to expire ; and,
- (9) <sup>3</sup> generally, for carrying into effect the purposes of this Act.

Power of  
Local Govern-  
ment to make  
rules.

60. The Local Government may, subject to the control of the Governor General in Council, make rules <sup>4</sup> consistent with this Act—

- (a) for the classification of prisons, and description and construction of wards, cells and other places of detention ;
- (b) for the regulation by numbers, length or character of sentences, or otherwise, of the prisoners to be confined in each class of prisons ;
- (c) for the government of prisons and for the appointment, guidance, control, punishment and dismissal of all officers appointed under this Act ;
- (d) as to the food, bedding and clothing of criminal prisoners and of civil prisoners maintained otherwise than at their own costs ;
- (e) for the employment, instruction and control of convicts within or without prisons ;
- (f) <sup>5</sup> for defining articles the introduction or removal of which into or out of prisons without due authority is prohibited ;
- (g) for classifying and prescribing the forms of labour and regulating the periods of rest from labour ;
- (h) for regulating the disposal of the proceeds of the employment of prisoner ;
- (i) for regulating the confinement in fetters of prisoners sentenced to transportation ;

<sup>1</sup> For rules made by the Govt. of Burma under clause (6), see Burma Gazette, 1908, Pt. I, p. 496.

<sup>2</sup> For rules under clause (7) made for (1) Assam, see Assam Jail Manual, (2) Punjab, see Punjab List of Local R. & O., and (3) for Coorg under clauses (5) and (7), see Coorg R. & O. (List).

<sup>3</sup> For rule by the Government of Bengal as to attendance at a Civil Court of civil prisoners, see Ben. Stat. R. & O., Vol. II.

<sup>4</sup> For rules regarding Government prisons in the Central Provinces made under Act 26 of 1870 and kept in force by this Act, see Cen. Provs. List of Local R. & O.

For rules for the management and superintendence of jails in Bengal, see Ben. Stat. R. & O., Vol. II, (2) Madras Presidency, see Mad. Local R. and O., Vol. I, and for notification prescribing a new Jail Code, see *ibid.*, (3) Coorg, see Coorg R. & O., and (4) Punjab, see Punj. List of Local R. & O.

<sup>5</sup> For notification by the Government of the United Provinces under clause (f), see U.P. List of Local R. & O., Vol. I.

## (Chap. XII.—Miscellaneous.)

- (j) for the classification and the separation of prisoners <sup>1</sup> ;
- (k) for regulating the confinement of convicted criminal prisoners under section 28 ;
- (l) for the preparation and maintenance of history-tickets ;
- (m) for the selection and appointment of prisoners as officers of prisons ;
- (n) for rewards for good conduct ;
- (o) for regulating the transfer of prisoners whose term of transportation or imprisonment is about to expire ;
- (p) for the treatment, transfer and disposal of criminal lunatics or recovered criminal lunatics confined in prisons ;
- (q) for regulating the transmission of appeals and petitions from prisoners and their communications with their friends ;
- (r) <sup>2</sup> for the appointment and guidance of visitors of prisons ;
- (s) <sup>3</sup> for extending any or all of the provisions of this Act and of the rules thereunder to subsidiary jails or special places of confinement appointed under section 541 of the <sup>4</sup> Code of Criminal Procedure, 1882, and to the officers employed, and the prisoners confined, therein ; and,
- (t) <sup>5</sup> generally, in regard to the admission, custody, employment, dieting, treatment and release of prisoners, and for other purposes consistent with this Act.

X of 1882.

61. Copies of rules under sections 59 and 60, so far as they affect the government of prisons, shall be exhibited, both in English and in the Vernacular, in some place to which all persons employed within a prison have access.

Exhibition of  
copies of  
rules.

62. All or any of the powers <sup>5</sup> and duties conferred and imposed by this Act on a Superintendent or Medical Officer may in his absence be exercised and performed by such other officer as the Local Government may appoint in this behalf either by name or by his official designation.

Exercise of  
powers of  
Superintendent  
and  
Medical  
Officer.

<sup>1</sup> For rules for the classification and treatment of prisoners by (1) the Chief Commissioner, Andaman and Nicobar Islands, *see* Andaman and Nicobar Gazette, 1902, p. 343, (2) under Bom. Act 2 of 1874, Bom. Code, Vol. II, which are kept in force by this Act, *see* Bom. List of Local R. & O., Vol. I, and by (3) the Government of the Punjab as to prisoners sentenced under the Murderous Outrages Regulation, 1901 (IV of 1901), *see* Punjab Gazette, 1903, Pt. I, p. 104.

<sup>2</sup> For rules under clause (r) for Burma, *see* Bur. Gazette, 1898, Pt. I, p. 62 ; *ibid*, 1899, Pt. I, p. 503, and Bur. R. M., Vol. I.

For rules under clauses (r) and (t) for the Bombay Presidency, *see* Bom. Govt. Gazette, 1900, Pt. I, p. 2405.

<sup>3</sup> For instance of a notification issued under this clause, *see* U. P. List of Local R. & O., Vol. I.

<sup>4</sup> See now the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

<sup>5</sup> For notification empowering certain officers in Burma to perform the duties of a Superintendent of a jail during his absence, *see* Bur. Gazette, 1908, Pt. I, p. 134.

(The Schedule.—Enactments repealed.)

## THE SCHEDULE.

## ENACTMENTS REPEALED.

(See section 2.)

Year.	No.	Title or short title.	Extent of repeal.
1	2	3	4
<i>Acts of the Governor General in Council.</i>			
1856	VIII.	An Act for the better control of the jails within the Presidency of Bombay.	So much as has not been repealed.
1870	XXVI	Prisons Act, 1870 . . .	So much as has not been repealed.
1874	XV	Laws Local Extent Act, 1874 .	So much of Part (b) of the Third Schedule as relates to Act VIII of 1856.
1878	XIV	An Act to assimilate certain powers of the Local Government of the North-Western Provinces and Oudh.	Section 2.
1891	XII	Repealing and Amending Act, 1891	So much of the Second Schedule as relates to Acts VIII of 1856 and XXVI of 1870.
<i>Acts of the Governor of Fort St. George in Council.</i>			
1869	V	Madras Jails Act, 1869 . . .	So much as has not been repealed.
1882	VII	Madras Jails Act Amendment Act, 1882.	The whole.
1869	II	An Act to amend the Madras Jails Act, 1869.	The whole.
<i>Acts of the Governor of Bombay in Council.</i>			
1874	II	An Act for the regulation of Jails in the City and Presidency of Bombay, and the enforcement of discipline therein.	So much as has not been repealed except sections 9 to 16 (both inclusive) as amended by Bombay Act II of 1882.

<sup>1</sup> Genl. Acts, Vol. II.<sup>2</sup> U. P. Code, Vol. I.<sup>3</sup> The entry repealing that portion of the Upper Burma Laws Act, 1886 (20 of 1886), which relates to Act 26 of 1870 was repealed by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.<sup>4</sup> *Supra*.<sup>5</sup> Bom. Code, Vol. II.

*(The Schedule.—Enactments repealed.)*

Year.	No.	Title or short title.	Extent of repeal.
1	2	3	4

*Acts of Governor of Bombay in Council—contd.*

1882	IV . .	An Act to amend Bombay Act II of 1874.	Section 3.
1883	IV . .	An Act to amend the Law concerning the confinement of civil prisoners liable to imprisonment under the Criminal Procedure Code.	The whole.
1887	I . .	An Act to further amend Bombay Act II of 1874.	The whole.

*Acts of the Lieutenant-Governor of Bengal in Council.*

1864	II . .	An Act for the regulation of jails and the enforcement of discipline therein.	So much as has not been repealed.
1865	V . .	An Act to amend Act II of 1864, passed by the Lieutenant-Governor of Bengal in Council, and to extend the provisions thereof to the Presidency Jail.	So much as has not been repealed.

*Regulations made under the Statute 33 Victoria, Chapter 3.*

1872	III . .	Sonthal Parganas Settlement Regulation.	So much of the Schedule (as amended by Regulation III of 1886) as relates to Bengal Acts II of 1864 and V of 1865.
1874	IX . .	Arakan Hill District Laws Regulation, 1874.	So much as relates to Act XXVI of 1870.
1875	II . .	Assam Prisons Regulation, 1875 .	The whole.
1890	I . .	British Baluchistan Laws Regulation, 1890.	So much as relates to Act XXVI of 1870.

<sup>1</sup> Bom. Code, Vol. II.<sup>2</sup> Ben. Code, Vol. I.<sup>3</sup> Bur. Code.<sup>4</sup> Bal. Code.

THE INDIAN ARTICLES OF WAR AMENDMENT ACT,  
1894.

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73. Substitution of new Part for Part III.
74. Addition of Second Appendix to Articles.

ACT No. XII OF 1894.<sup>1</sup>

[12th October, 1894.]

An Act to amend the Articles of War for the Government of  
Her Majesty's Indian Forces.

WHEREAS it is expedient to amend the Articles of War for the Government of Her Majesty's Indian Forces ; It is hereby enacted as follows :—

Title and  
commence-  
ment.

1. (1) This Act may be called the Indian Articles of War Amendment Act, 1894 ; and

Repeal of  
clause (c) of  
Part I of  
Indian Arti-  
cles of War.

(2) It shall come into force on such <sup>2</sup> date as the Governor General in Council may by notification in the Gazette of India fix in that behalf.

V of 1869.

2. Part I, clause (c), of the Indian Articles of War (hereinafter called " the said Articles " ), is hereby repealed.

Substitution  
of new clause  
for clause (d)  
of Part I.

3. For Part I, clause (d), of the said Articles the following shall be substituted, namely :—

" (d).—*Application of Articles.*

" These Articles shall apply to all—

- (a) persons to whom they actually apply at present <sup>3</sup> ;
- (b) persons commissioned or gazetted as Native officers, or gazetted as warrant officers, of Her Majesty's Indian Forces ;
- (c) medical subordinates ;
- (d) persons attested under these Articles ;
- (e) unattested recruits ;
- (f) persons enrolled under these Articles ;
- (g) persons, not otherwise subject to military law, who, on active service, in camp, on the march, or at any frontier post specified by the Governor General in Council by notification in this behalf, are employed by, or are in the service of, or are followers of, or accompany any portion of, Her Majesty's Indian Forces :

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1894, Pt. V, p. 125 ; for Report of the Select Committee, see *ibid.*, p. 139 and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 224, 227, 233 and 235.

As being part of the Indian Articles of War (Act 5 of 1869), Genl. Acts, Vol. II, this Act was declared in force in Upper Burma by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

The Act has been extended to British Baluchistan by notification under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), see Gazette of India, 1896, Pt. II, p. 1064.

<sup>2</sup> The 1st April, 1895, see notification No. 1018, dated 2nd November, 1894, Genl. Stat. R. & O., Vol. III.

<sup>3</sup> That is, at the time Act received assent, 12th October, 1894.

Provided as follows :—

44 & 45 Vict.,  
c. 58.

If any person claims to belong to a class to which the Army Act<sup>1</sup> is, and these Articles are not, applicable, the burden of proving that he belongs to that class shall lie upon him.”

4. For Part I, clause (e), of the said Articles the following shall be substituted, namely :—

Substitution  
of new clause  
for clause  
(e) of Part I.

“ (e).—*Definitions.*

“ In these Articles, unless there is something repugnant in the subject or context,—

(1) ‘ notification ’ means a notification published in the official Gazette :

(2) ‘ prescribed ’ means prescribed by rules made by the Governor General in Council or by any authority empowered by him in this behalf :

(3) ‘ British officer ’ means an officer holding a commission in Her Majesty’s land forces, but does not include an honorary commissioned officer :

(4) ‘ Native officer ’ means an officer commissioned or gazetted as an officer holding a Native rank in Her Majesty’s Indian Forces :

(5) ‘ officer ’ means a British officer or Native officer, but does not include a warrant officer or non-commissioned officer :

(6) ‘ medical subordinate ’ means a senior hospital assistant, a hospital assistant of the first, second or third class, and a sub-hospital assistant, but does not include an officer :

(7) ‘ superior officer, ’ when used in relation to a person subject to these Articles, includes a warrant officer, a non-commissioned officer and an acting non-commissioned officer :

(8) ‘ soldier ’ includes a non-commissioned officer and any armed person doing duty in the ranks of Her Majesty’s Indian Forces :

(9) ‘ recruit ’ means a person enlisted for enrolment in any corps or department as a soldier :

(10) ‘ corps ’ means a unit of command, such as a regiment of cavalry, a regiment or battalion of infantry, a battery of artillery, and any other separate body of troops which is declared by the Governor General in Council by general or special order to be a corps for the purposes of these Articles ; it also includes an army hospital corps and a transport corps :

(11) ‘ department ’ includes any division or branch of a department :

(12) ‘ military reward ’ means any gratuity or annuity for long service or good conduct ; it also includes any good-conduct pay or pension and any other pecuniary reward :

<sup>1</sup> Coll. Stats. Ind., Vol. II.



(13) 'enemy' includes all armed mutineers, armed rebels, armed rioters and pirates :

(14) 'active service,' as applied to a person subject to these Articles, means the time during which such person is attached to or forms part of a force which is engaged in operations against an enemy, or is engaged in military operations in, or is on the line of march to, a country or place wholly or partly occupied by an enemy, or is in military occupation of any foreign country :

(15) the expression 'India' <sup>1</sup> means British India, together with any territories of any Prince or Chief under the suzerainty of Her Majesty exercised through the Governor General in Council or through any Governor in Council or other officer subordinate to the Governor General in Council : and the expression 'British India' <sup>2</sup> means all territories and places within Her Majesty's dominions which are for the time being governed by Her Majesty through the Governor General in Council or through any Governor in Council or other officer subordinate to the Governor General in Council :

(16) the expression 'general officer of the Command' means the general officer commanding the forces in a Command : and the expression 'Command' means one of the principal portions into which the army of India is, for the time being, divided :

(17) 'commanding officer,' when used in any provision of these Articles with reference to any separate portion of Her Majesty's forces or to any department, means the British officer whose duty it is under the Army Regulations, India, or, in the absence of any such Regulation, by the custom of the service, to discharge with respect to that portion of the forces or that department the functions of commanding officer in regard to matters of the description referred to in that provision :

(18) 'military custody' means the arrest or confinement of a person, according to the usages of the service :

(19) 'court-martial' means a court-martial held under these Articles :

(20) 'criminal court' means a court of ordinary criminal justice in British India, or established or continued elsewhere by the authority of the Governor General in Council :

(21) 'civil offence' means an offence which if committed in British India would be triable by a criminal court :

(22) 'offence' means any act or omission punishable under these Articles and includes a civil offence as hereinbefore defined : and

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<sup>1</sup> Cf. definition in s. 3 (27) of the General Clauses Act (10 of 1897), *infra*.

<sup>2</sup> Cf. definition in s. 3 (7) of the General Clauses Act, 1897 (10 of 1897).

**XLV of 1860.** (25) expressions occurring in the <sup>1</sup> Indian Penal Code and used in these Articles and not herein otherwise defined shall have the meanings respectively assigned to them by that Code."

5. For Part I, clause (f), of the said Articles the following shall be substituted, namely :—

Substitution  
of new clause  
for clause (f),  
of Part I.

" (f).—*Saving of certain Regulations.*

" Nothing in these Articles shall affect any regulations by which the respective officers and powers of cantonment magistrates and officers in charge of the police in cantonments are defined and controlled."

6. For Part II, Title I, of the said Articles the following shall be substituted, namely :—

Substitution  
of new title  
for Title I of  
Part II.

#### TITLE I.—ENROLMENT, ATTESTATION, DISMISSAL AND DISCHARGE.

*Article 1.*—(1) The Governor General in Council may, by notification, declare what persons or classes of persons shall be enrolled only, or be both enrolled and attested, respectively.<sup>2</sup>

Enrolment  
and attesta-  
tion.

(2) A person shall be deemed to be enrolled under these Articles when his name has, with his consent, been entered in the prescribed manner on the list of a corps or department of Her Majesty's Indian Forces.

Mode of en-  
rolment.

(3) Subject to the provisions of this article with respect to recruits, every person to be attested under these Articles shall be taken before the prescribed civil or military officer, and that officer shall read and explain to him, or cause to be read and explained to him in his presence, the questions set forth in the prescribed form of attestation, and such other matters (if any) as may be prescribed ; and, after having cautioned him that if he makes a false answer to any question set forth in the attestation form he will be liable to be punished as provided by these Articles, shall record the answer to each question, and shall, if he is satisfied that the person fully understands the questions, and that the answer has been correctly recorded opposite each question, and if he perceives no impediment, administer to the person an affirmation or oath in the prescribed form.

Mode of  
attestation.

(4) The form of affirmation or oath prescribed under this article shall contain a promise that the person to be attested will be faithful to Her Majesty, Her heirs and successors, and that he will serve in Her Majesty's Indian Forces and go wherever he is ordered by land or sea, and that he will obey all commands of any officer set over him, even to the peril of his life.

<sup>1</sup> Genl. Acts, Vol. I.

<sup>2</sup> For declaration made under this article, see Genl. Stat. R. and O., Vol. I.

(5) When a recruit is reported fit for duty, an affirmation or oath in the same form shall be administered to him in the prescribed manner by the commanding officer in front of the corps or such portion thereof or such members of the department as shall be present.

(6) After administering the affirmation or oath, the officer shall authenticate the attestation paper by his signature, and the person shall then be deemed to have been attested.

Treatment of  
enrolment  
and attesta-  
tion as of  
same effect in  
certain cases.

(7) Subject to any rules which may be prescribed, the Commander-in-Chief in India, or the general officer of the Command, may direct that any persons to whom these Articles apply as attested persons shall, for the purposes of these Articles, be deemed to be enrolled, and that any persons to whom these Articles apply as enrolled persons shall, for the purposes of these Articles, be deemed to be attested.

Rank and  
subordination.

“*Article 2.*—(1) Subject to the provisions of the Army Act,<sup>1</sup> the Governor General in Council may, by notification, direct that persons of any class subject to these Articles shall, for any of the purposes of these Articles, be deemed to be Native officers, warrant officers or non-commissioned officers; and,

44 and 45  
Vict., c. 58.

(2) Subject as aforesaid, any prescribed authority may issue an order giving a like direction with respect to any such person;

(3) Any notification or order issued under this article may be cancelled by the authority issuing the same; and,

(4) Subject as aforesaid, any person of the said classes with respect to whom no such notification or order is in force shall, so far as may be, be deemed for all the purposes of these Articles to be of a rank inferior to that of a non-commissioned officer.

(5) Should any question arise as to the rank of any other person subject to these Articles, or as to whether any such person is above or below a specified rank, the decision of the Governor General in Council thereon shall be conclusive.

(6) Every person subject to these Articles shall, for the purposes thereof, be deemed to be under the commanding officer of the corps or department (if any) to which he is attached, and, if not attached to any corps or department under any officer who may for the time being be named as his commanding officer by the general or other officer commanding the force with which such person may for the time being be serving, or of any other prescribed officer, or, if no such officer is named or prescribed under the said general or other officer commanding :

<sup>1</sup> Coll. Stats. India, Vol. II.

Provided that a general or other officer commanding shall not place any person under an officer of official rank inferior to that of such person if there is present at the place where such person is any officer of higher rank under whom he can be placed.

“ *Article 3.*—(1) Every Native officer shall be liable to dismissal from the service by the sentence of a general court-martial and to dismissal or discharge by order of the Governor General in Council, or of the Commander-in-Chief in India, or of the general officer of the Command to which he belongs.

Dismissal and discharge of commissioned officers.

(2) A Native officer dismissed under these Articles shall forfeit all claim to pension.

“ *Article 4.*—(1) Every person subject to these Articles, other than a Native officer, shall be liable to—

Dismissal and discharge of other persons.

(a) dismissal from the service by the sentence of any court-martial empowered to try him, and

(b) dismissal or discharge from the service, by order of the Governor General in Council, or of the Commander-in-Chief in India, or of the general officer of the Command to which he belongs, or of the officer commanding the division or district in which he is serving, or, if he belongs to a force not attached to a command, by order of the officer commanding such force.

(2) Every person so dismissed shall forfeit all claim to pension.

“ *Article 5.*—(1) Every attested person of or below the rank of non-commissioned officer who has been dismissed or discharged from the service and who subsequently re-enters the service without at the time stating the fact of his dismissal or discharge, or showing his certificate of dismissal or discharge, may be dismissed the service by the officer commanding the corps or department with which he is serving ; and

Attested person dismissed or discharged and re-enlisting or making false answer at his attestation.

(2) Every attested person of or below the rank of non-commissioned officer who is discovered to have made a wilfully false answer to any question set forth in the attestation paper which has been put to him by, or by direction of, the officer before whom he appears for the purpose of being attested, shall, on conviction by court-martial, be liable to suffer imprisonment (with hard labour and with or without solitary confinement) or such less punishment as is in these Articles mentioned.

“ *Article 6.*—Every attested person who is dismissed or discharged from the service shall be furnished by his commanding officer with a certificate in the English language and in the mother-tongue of such person (when his mother-tongue is not English), setting forth—

Certificate to person dismissed or discharged.

(a) the authority dismissing or discharging him ;

(b) the cause of his dismissal or discharge ; and

(c) the full period of his service in the army."

Repeal of  
portion of  
article 7.

7. In article 7, sentence I, of the said Articles, the words " in any regiment, corps, detachment or guard " are hereby repealed.

Substitution  
of new sen-  
tence for  
third sen-  
tence of same  
article.

8. For the third sentence of the last-mentioned article the following shall be substituted, namely :—

" or who, knowing or having reason to believe in the existence of any mutiny or sedition, or of any intention to mutiny or create sedition, or of any conspiracy against the State."

Amendment  
of article 8.

9. In article 8 of the said Articles, for the words " under any circumstances in which the superior officer is distinguishable as such in any manner " the words " knowing or having reason to believe him to be such " shall be substituted.

Substitution  
of new article  
8 for articles  
10 and 11

10. For articles 10 and 11 of the said Articles the following shall be substituted, namely :—

*"Desertion.*

*" Article 10.—Who deserts or attempts to desert the service ;—or*

*" Re-enlistment without having been discharged.*

*" Article 11.—Who, without having first obtained a regular discharge from the corps or department to which he belongs, enlists or enrolls himself in any other corps or department ;—or "*

Amendment  
of article 24.

11. For the last paragraph of article 24 of the said Articles the following shall be substituted, namely :—

" Whenever any person is convicted of an offence specified in article 7 and punishable with death under this article, all his property, moveable and immoveable, shall be forfeited to the Government."

Substitution  
of new  
articles for  
articles 25  
and 26.

12. For articles 25 and 26 of the said Articles the following shall be substituted, namely :—

*" Unbecoming behaviour.*

*" Article 25.—Any officer, medical subordinate or warrant officer who behaves in a manner unbecoming his position and character ;—and*

*any person subject to these Articles—*

*" Intoxication on duty.*

*" Article 26.—Who is in a state of intoxication when on or after having been warned for any duty, or on parade, or on the line of march ;—or "*

13. For article 31 of the said Articles the following shall be substituted, namely :—

Substitution  
of new  
article for  
article 31.

*“ Failure to rejoin.*

*“ Article 31.—Who, being on leave of absence and having received information from proper authority that his corps or department has been ordered on service, fails, without sufficient cause, to rejoin without delay ;—or ”.*

14. For article 39 of the said Articles the following shall be substituted, namely :—

Substitution  
of new  
article for  
article 39.

*“ Impeding Provost-marshal.*

*“ Article 39.—Who impedes a provost-marshal or an assistant provost-marshal, or any officer or non-commissioned officer or other person legally exercising authority under or on behalf of a provost-marshal or, when called on, refuses to assist, in the execution of his duty, the provost-marshal, assistant provost-marshal or any such officer, non-commissioned officer or other person ;—or ”.*

15. In article 40 of the said Articles the words “ enrolled or ” shall be inserted between the word “ person ” and the word “ attested.”

Amendment  
of article 40.

16. For article 47 of the said Articles the following shall be substituted, namely :—

Substitution  
of new article  
for article 47.

*“ Making away with regimental necessities.*

*“ Article 47.—Who—*

(a) designedly or through neglect kills, injures, makes away with, or loses his horse or ill-treats any animal used in the public service ;—or

(b) dishonestly or fraudulently removes, conceals or delivers to any person, or designedly or through neglect injures, or loses his arms, clothes, tools, musical or surgical instruments, equipments, ammunition, accoutrements or regimental necessities, or any such articles entrusted to him or belonging to any other person ;—or

(c) sells, pawns, destroys or defaces any medal or decoration granted to him by order of Her Majesty or of the Governor General in Council for service in the field or for general good conduct ;—or ”.

17. For article 57 of the said Articles the following shall be substituted, namely :—

Substitution  
of new article  
for article 57.

*“ Punishment for offences mentioned in articles 54, 55 and 56.*

*“ Article 57.—Shall, if convicted by a general court-martial, be sentenced to be dismissed the service and to forfeit any arrears of pay and allowances due*

to him at the time of dismissal, and shall be punishable also with imprisonment (with or without hard labour, and with or without solitary confinement) for a term which may extend to two years; and shall, if convicted by a district court-martial, be liable to any or all of the penalties which such court is competent to inflict."

Amendment  
of article 65.  
Substitution  
of new article  
for article 66.

18. In article 65 of the said Articles the word "other" shall be omitted.

19. For article 66 of the said Articles the following shall be substituted, namely :—

*"Penalties for offences specified in articles 58 to 65.*

*"Article 66.*—Shall, on conviction by a general or district court-martial, be liable to any or all of the punishments, other than death or transportation, which the court-martial is competent to award."

Amendment  
of article 69.

20. In article 69 of the said Articles, for the words "such punishments as" to the end, the words "any or all of the punishments, other than death or transportation, which the court-martial is competent to award" shall be substituted.

Substitution  
of new article  
for article 71.

21. For article 71 of the said Articles the following shall be substituted, namely :—

*"Abetment.*

*"Article 71.*—Every person who abets, within the meaning of the <sup>1</sup> Indian Penal Code, any offence punishable under these Articles may be punished with the punishment hereinbefore provided in these Articles for such offence." XLV of 1860.

Substitution of  
new article for  
article 72.

22. For article 72 of the said Articles, the following shall be substituted, namely :—

Courts-martial  
and the kinds  
thereof.

*"Article 72.*—For the purposes of these Articles, there shall be five kinds of courts-martial, that is to say—

- |                                     |   |   |
|-------------------------------------|---|---|
| (1) General courts-martial.         | } | Hereinafter called ordinary courts-martial.       |
| (2) District courts-martial.        |   |   |
| (3) Regimental courts-martial.      |   |   |
| (4) Summary general courts-martial. | } | Hereinafter called extraordinary courts-martial." |
| (5) Summary courts-martial.         |   |   |

Substitution  
of new articles  
for articles 73  
and 74.

23. For articles 73 and 74 of the said Articles the following shall be substituted, namely :—

*"Ordinary Courts-martial.*

Power to con-  
vene ordinary  
courts-martial.

*"Article 73.*—(1) The following authorities shall have power to convene general or district courts-martial, namely :—

- (a) the Commander-in-Chief in India.

(b) the general officer of the Command,

(c) any officer empowered in that behalf by warrant of the Commander-in-Chief in India or the general officer of the Command.

(2) <sup>1</sup> The power of convening general or district courts-martial may be granted under clause (1), sub-clause (c), subject to such restrictions, reservations, exceptions and conditions as the Commander-in-Chief in India or the general officer of the Command granting the power may think fit.

(3) Any warrant under this article for convening general or district courts-martial, or either of them, may be addressed to an officer by name, or by designation of his office, or partly in one way and partly in the other, and may or may not, according to the terms thereof and the mode in which it is addressed, be limited to an officer named or be extended to any person for the time being performing the duties of such officer, or to the successors in command, of such officer.

“Article 74.—A general court-martial shall, if held in British India, consist of not less than seven officers, unless that number, due regard being had to the public service, is not available, in which case the court may consist of not less than five officers.”

Composition  
of general  
courts-mar-  
tial.

24. Articles 75, 77, 78 and 79 of the said Articles are hereby repealed.

Repeal of  
articles 75, 77,  
78 and 79.  
Amendment  
of article 76.

25. In article 76 of the said Articles, for the words “reduction to the ranks” the words “reduction to a lower grade or to the ranks” shall be substituted.

Amendment  
of article 76.

26. For articles 80 and 81 of the said Articles the following shall be substituted, namely :—

Substitution  
of new arti-  
cles for  
articles 80 and  
81.

“Article 80.—A district court-martial shall consist of not less than five officers, unless that number, due regard being had to the public service, is not available, in which case the court may consist of not less than three officers.

Composition  
of district  
court-mar-  
tial.

“Article 81.—A district court-martial may, when necessary, be composed wholly of officers of the corps or department to which the accused belongs.”

27. In article 82 of the said Articles the words “or garrison” and the words “other than mutiny” shall be omitted.

Amendment  
of article 82.

28. In the last-mentioned article, for the words “one year” the words “two years” and for the words “reduction to the ranks” the words “reduction to a lower grade or to the ranks” shall be respectively substituted.

Further  
amendment  
of same arti-  
cle.

<sup>1</sup> For notification issued under this power, see Genl. Stat. B. and O., Vol. I, p. 156.



Insertion of  
new article  
after article  
82.

29. After article 82 of the said Articles the following article shall be inserted, namely :—

Convening  
order to state  
if larger  
number of  
officers is not  
available.

“ *Article 82A.*—Whenever a general or district court-martial is ordered to be composed of the smaller number of officers specified in article 74 or 80, the order convening the court shall expressly state that the larger number of officers is not, due regard being had to the public service, available ; and that statement shall be conclusive evidence of the fact so stated.”

Substitution  
of new arti-  
cles for arti-  
cles 83, 84  
and 85.

30. For articles 83, 84 and 85 of the said Articles the following shall be substituted, namely :—

Appointment  
of regimental  
court-martial.

“ *Article 83.*—A regimental court-martial may be appointed by the officer commanding any corps or department or detachment thereof or by any officer when in command of two or more corps or departments or detachments thereof.

Composition  
of regimental  
court-martial.

“ *Article 84.*—A regimental court-martial shall consist of not less than three officers.

Powers of  
such court.

“ *Article 85.*—A regimental court-martial shall have power to try all persons subject to these Articles and not above the rank of non-commissioned officer—

(a) for any offence triable by a court-martial under these Articles, except an offence punishable under articles 7 to 23 (both inclusive), articles 54 to 65 (both inclusive), or articles 171 to 173 (both inclusive), and,

(b) with the previous sanction of the prescribed authority, for any of the offences so excepted.

Powers as to  
sentences of  
such courts.

“ *Article 85A.*—A regimental court-martial shall have power to pass any sentence which might have been passed by a district court-martial for the like offence other than suspension from rank, pay and allowances :

Provided that no sentence of imprisonment for a term exceeding six months, nor any of the additional punishments specified in article 135, shall be passed by a regimental court-martial.”

Substitution  
of new arti-  
cles for arti-  
cles 86 to 89.

31. For articles 86 to 89 (both inclusive) of the said Articles the following shall be substituted, namely :—

Native and  
British  
officers when  
to be nomi-  
nated.

“ *Article 86.*—(1) The officers composing a court-martial convened under the foregoing provisions shall, except as hereinafter provided, be Native officers.

(2) The Governor General in Council, or the Commander-in-Chief in

India, or the general officer of the Command, or any officer empowered in that behalf by warrant of the Commander-in-Chief in India or the general officer of the Command, may direct that any court-martial convened under these Articles shall be composed of British instead of Native officers.

(3) Any person subject to these Articles, who is under orders for trial by any court-martial, may claim to be tried by British officers.

(4) In all cases the right of making such a claim shall, before the court is convened, be explained to the person under orders for trial by the commanding officer, or some officer deputed by him in this behalf, and when such a claim is made, the court shall be constituted accordingly.

(5) A court-martial convened for the trial of any person subject to these Articles, and serving with any British corps or detachment, may be composed of British officers if, in the opinion of the officer convening the court (such opinion to be expressed in the order convening the court and to be conclusive), Native officers are not available with due regard to the public service for service on the court.

“ *Article 87.*—(1) Every general court-martial shall be attended by a judge advocate.

(2) If no officer of the judge advocate general's department is available, the officer convening the court shall appoint a fit person to act as judge advocate at the trial.

(3) No person under orders for trial or under trial by any court-martial may, without the leave of the court, object to any person acting or professing to act as judge advocate.

(4) A British officer of not less than four years' service, hereinafter called the superintending officer, shall be appointed to superintend the proceedings of every court-martial composed of Native officers which is not attended by a judge advocate.

“ *Article 88.*—(1) At every court-martial the senior officer shall sit as president without special appointment as such.

(2) In case of the death or unavoidable absence of the president, the next senior officer shall take the place of the president, without special appointment as such, and the trial shall proceed if the court is still composed of not less than the smallest number of officers of which it is required by these Articles to consist.

“ *Article 89.*—No finding or sentence of a general, district or regimental court-martial shall be valid, except so far as it may be confirmed as provided by these Articles.

Judge advocate and appointment of superintending officer for native court-martial.

President.

Finding and sentence invalid without confirmation.

By whom  
findings and  
sentences  
may be con-  
firmed or  
otherwise  
disposed of.

“ *Article 89A.*—(1) The following authorities shall have power to confirm the findings and sentences of general and district courts-martial :—

- (a) the Commander-in-Chief in India ;
- (b) the general officer of the Command, as regards troops under his command wherever stationed ;
- (c) the officer commanding a force not attached to a Command ;
- (d) any officer empowered in that behalf by warrant of the Commander-in-Chief in India or the general officer of the Command :

- <sup>1</sup> (e) in the case of any person subject to these Articles, who is serving out of India, not under the orders of the Commander-in-Chief in India, in any station beyond the seas as defined in section 190, clause (25), of the<sup>2</sup> Army Act, the officer who convenes the court-martial or who has authority to convene such court-martial.]

44 & 45 V  
c. 58.

Provided that, except on active service or beyond the limits of India, no warrant issued under this article shall be deemed to empower an officer to confirm any finding or sentence in the case of an officer, medical subordinate or warrant officer, or a sentence of death, transportation or imprisonment for a term exceeding seven years in any case whatever.

(2) The provisions of article 73, clauses (2) and (3), shall, with the necessary modifications, apply to warrants issued under this article.

(3) The officer who convenes a regimental court-martial or the officer having authority to convene such court-martial, at the date of the submission of the finding and sentence thereof, shall have power to confirm the same.

“ *Article 89B.*—Subject to such restrictions as may be contained in any warrant issued under the last preceding article, the confirming officer may, when confirming the sentence of a court-martial, mitigate or remit the punishment thereby awarded, or commute that punishment for any less punishment or punishments to which the offender might have been sentenced by the court-martial :

Power of con-  
firming  
officer to  
mitigate, re-  
mit or com-  
mute sen-  
tence.

Provided that a sentence of transportation shall not be commuted to a sentence of imprisonment for a term exceeding the term of transportation awarded by the court.”

32. For articles 90 to 97 (both inclusive) of the said Articles the following shall be substituted, namely :—

*“ Extraordinary Courts-martial.*

“ *Article 90.*—The following authorities shall have power to convene a summary general court-martial, and such a court-martial may be convened—

- (a) in any place, whether within or beyond British India, by an officer

Substitution  
of new  
articles for  
articles 90 to  
97.  
Convening  
of summary  
general  
courts-mar-  
tial.

<sup>1</sup> This clause was added by the Indian Articles of War (Amendment) Act, 1904 (13 of 1904) s. 2, see Genl. Acts, Vol. VI.

<sup>2</sup> Coll. Stats. Ind., Vol. II.

empowered in this behalf by an order of the Governor General in Council or of the Commander-in-Chief in India or of the general officer of the Command ;—

- (b) by an officer commanding any detached portion of Her Majesty's troops upon active service when in his opinion it is not practicable, with due regard to discipline and the exigencies of the service, that an offence should be tried by an ordinary general court-martial.

" *Article 91.*—\*<sup>1</sup> A summary general court-martial shall consist of not less than three officers, who may be either British or Native or both British and Native officers, as the officer convening the court thinks fit.

Composition of summary general courts-martial.

1 \* \* \* \* \*

" *Article 92.*—A summary general court-martial shall have all the powers of a general court-martial, and, subject to any instructions contained in the order convening the court, its sentence shall be valid, and may be carried out forthwith in case it does not exceed that which a district court-martial is empowered to pass, and in any other case when confirmed by the authority convening the court.

Powers of a summary general court-martial.

" *Article 93.*—(1) A summary court-martial may be held—

- (a) by the commanding officer, being a combatant officer, of any corps or department of Her Majesty's Indian Forces, or of any detachment of those forces ;  
(b) by the commanding officer of any British corps or detachment to which Native combatant details subject to these Articles are attached.

Convening and constitution of, and persons triable by, a summary court-martial.

(2) At every summary court-martial the officer holding the trial shall alone constitute the court, but the proceedings shall be attended throughout by two other officers, British or Native, who shall not, as such, be affirmed or sworn.

(3) The proceedings shall be recorded in the English language, and, when closed, shall be signed by the officer holding the trial, and by the officers attending thereat.

(4) A summary court-martial may try any person subject to these Articles and under the command of the officer holding the court, except an officer, medical subordinate or warrant officer.

<sup>1</sup> The parentheses and figure "(1)" and sub-article (2) were repealed by the Indian Articles of War (Amendment) Act, 1904 (13 of 1904), s. 3, *see* Genl. Acts, Vol. VI.

Sub-article (2) was as follows:—

"(2) Such court may be convened and the proceedings thereof be recorded in accordance with the form in the Second Appendix to these Articles with such variations as the circumstances of each case may require:

Provided that the convening officer may, in respect of any such trial by such court, specially order the evidence, together with the prisoner's statement in defence, to be fully recorded in writing."

(5) Any member of an army hospital corps may be tried by summary court-martial by any officer authorised in this behalf by the officer commanding the division, district, brigade or station to which the alleged offender belongs.

Offences tri-  
able by a  
summary  
court-mar-  
tial.

"Article 94.—A summary court-martial may try any offence punishable under any of these Articles :—

Provided that when there is no grave reason for immediate action, and reference can, without detriment to discipline, be made to superior authority a summary court-martial shall not try without such reference any of the following offences, namely :—

(a) any offence punishable under any of the articles 7 to 23 (both inclusive), or articles 54 to 65 (both inclusive), or article 171 ;

(b) any offence against the officer holding the court.

Powers of a  
summary  
court-mar-  
tial.

"Article 95.—(1) A summary court-martial held by the commanding officer of a corps or department may pass any sentence which can be passed under these Articles, except a sentence of death or transportation, or of imprisonment for a term exceeding one year.

(2) A summary court-martial held by any other officer may pass any sentence which can be passed under these Articles, except a sentence of death or transportation, or of imprisonment for a term exceeding six months.

Finding and  
sentence of a  
summary  
court-mar-  
tial.

"Article 96.—The finding and sentence of a summary court-martial shall not require to be confirmed, but may be carried out at once :

Provided that, if the officer holding the trial is of less than five years service, he shall not, except on active service, carry into effect any sentence until it has received the approval of a superior military officer commanding not less than a corps.

Transmission  
of proceed-  
ings of sum-  
mary courts-  
martial.

"Article 97.—The proceedings of every summary court-martial shall, without delay, be forwarded to the officer commanding the district, or the division or brigade, within which the trial was held, or to the prescribed officer : and such officer or the Commander-in-Chief in India or the general officer of the Command, or, when the court is held in a force not attached to a Command, the officer commanding the force, may, for reasons based on the merits of the case, but not on any merely technical grounds, set aside the proceedings."

Substitution  
of new article  
for article  
100.  
Arrest or  
confinement  
of accused.

33. For article 100 of the said Articles the following shall be substituted' namely :—

"Article 100.—(1) Whenever any person subject to these Articles is accused of any offence which his commanding or other superior officer considers should be tried by court-martial, such officer shall order the accused to be placed in military custody until he can be tried by a court-martial or is discharged by proper authority.

(2) No such person shall be detained in military custody longer than is necessary for the purposes of justice."

34. Article 101 of the said Articles is hereby repealed.

Repeal of  
article 101.

35. For article 102 of the said Articles the following shall be substituted, namely :—

Substitution  
of new  
article for  
article 102.  
Interpreter.

"Article 102.—(1) An interpreter shall be appointed to every court-martial.

(2) If no duly qualified interpreter is available at the station or place where the court-martial sits, the officer appointing the court, or the officer commanding in the district or place within or at which the trial is to be held, shall appoint any competent person to perform the duty of interpreter.

(3) When no other qualified or competent person is available, the superintending officer, or, in the case of an European court, the president, shall perform the duty of interpreter.

(4) In the case of a trial by a summary court-martial, the officer holding the trial or one of the officers in attendance thereat may perform the duty of interpreter if no other competent interpreter is available.

(5) No interpreter shall, as such, have a vote upon any matter."

36. For article 103 of the said Articles the following shall be substituted, namely :—

Substitution  
of new  
articles for  
article 103.

"Article 103.—(1) When a court-martial after the commencement of the trial is reduced below the smallest number of officers of which it is by these Articles required to consist, it shall be deemed to be dissolved.

Dissolution  
of courts.

(2) If, on account of the illness of the prisoner before the finding, it is impossible to continue the trial, a court-martial shall be dissolved.

(3) Where a court-martial is dissolved under this article, the prisoner may be tried again.

"Article 103A.—The president of a court-martial may, on any deliberation among the members, cause the court to be cleared of all other persons.

Power to  
clear court.

"Article 103B.—The court may, when it thinks fit, view any place.

Power to  
view place.

37. In article 104 of the said Articles the words "general court-martial" appointed under an Order in Council, or of any other" and the words and figures "under article 96 or 97" shall be omitted.

Amendment  
of article  
104.

38. In article 107 of the said Articles, for the words "courts-martial, other than courts-martial appointed under an Order in Council, or summary" the word "ordinary" shall be substituted.

Amendment  
of article  
107.

Insertion of  
new article  
after article  
108.

¶ 39. After article 108 of the said Articles the following article shall be inserted, namely :—

Affirmation  
or oath of  
interpreter.

“ *Article 108A.*—At a summary court-martial the interpreter shall make affirmation or oath down to the words ‘ published by authority ’ only.”

Repeal of  
article 114.

40. Article 114 of the said Articles is hereby repealed.

Substitution  
of new  
article for  
article 116.

41. For article 116 of the said Articles the following shall be substituted, namely :—

Conviction of  
one offence  
permissible  
on charge of  
another.

“ *Article 116.*—(1) A prisoner charged before a court-martial with desertion may be found guilty of attempting to desert or of being absent without leave.

(2) A prisoner charged before a court-martial with attempting to desert may be found guilty of desertion or of being absent without leave.

(3) A prisoner charged before a court-martial with any one of the following offences, that is to say, theft, dishonest misappropriation or conversion, criminal breach of trust, or dishonestly receiving or retaining stolen property, may be found guilty of any other of those offences.

(4) A prisoner charged before a court-martial with any other offence under these Articles may, on failure of proof of an offence having been committed under circumstances involving a more severe punishment, be found guilty of the same offence as having been committed under circumstances involving a less severe punishment.”

Substitution  
of new  
article for  
article 117.

42. For article 117 of the said Articles the following shall be substituted, namely :—

Evidence of  
previous  
convictions  
and general  
character.

“ *Article 117.*—(1) When any person subject to these Articles has been convicted by a court-martial of any offence, such court-martial shall enquire into, and receive and record evidence of, any previous convictions of such person, either by a court-martial or by a criminal court, and shall further enquire into and record the general character of such person.

(2) Evidence received under this article may be either oral, or in the shape of entries in, or certified extracts from, court-martial books or other official records ; and it shall not be necessary to prove the signature to such certified extracts, nor shall it be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(3) At a summary court-martial the commanding officer holding the trial may, if he thinks fit, record any previous convictions against the offender and his general character, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of this article.

I of 1872.

*“ Articles 117A.—*Subject to the provisions of the last foregoing article, the <sup>1</sup>Indian Evidence Act, 1872, subject to such modifications thereof and to such additional rules of evidence as the Governor General in Council may, by notification, direct, shall apply to all proceedings before a court-martial.

General rule as to evidence.

43. For articles 119 and 120 of the said Articles the following shall be substituted, namely :—

Substitution of new articles for articles 119 and 120.

*“ Article 119.—*No sentence of death shall be passed by any court-martial without the concurrence of two-thirds at the least of the members of the court.

Majority requisite to sentence of death.

*“ Article 120.—*(1) The finding or sentence of any court-martial may be once revised by order of the officer authorised to dispose of the proceedings, and on such revision, the court, if so directed by him, may take additional evidence.

Revision of finding or sentence.

(2) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers shall be unavoidably absent.

(3) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the court shall proceed with the revision, provided it still consists of the smallest number of officers of which such court is by these Articles required to consist.”

44. For articles 122 to 124 (both inclusive) of the said Articles the following shall be substituted, namely :—

Substitution of new articles for articles 122 to 124.

*“ Article 122.—*(1) The judge advocate in the case of a general court-martial, and the officer ordering the trial in the case of any other court-martial, may, by summons under his hand, require the attendance before the court, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

Summoning witnesses and production of documents.

(2) In the case of a witness amenable to military authority, the summons shall be sent to the officer actually commanding the corps, department or detachment to which he belongs, and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the magistrate within whose jurisdiction he may be or reside, and such magistrate shall give effect to the summons as if the witness were required in the court of such magistrate.

(4) When a witness is required to produce any particular document or other



thing in his possession or power, the summons shall describe it with convenient certainty.

(5) Nothing in this section shall be deemed to affect the <sup>1</sup>Indian Evidence Act, 1872, sections 123 and 124, or to apply to any letter, post-card, telegram or other document in the custody of the postal or telegraph authorities. 1 of 1872.

(6) If any document in such custody is, in the opinion of any district magistrate, chief presidency magistrate, high court or court of session, wanted for the purposes of any court-martial, such magistrate or court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such magistrate or court may direct.

(7) If any such document is, in the opinion of any other magistrate or of any commissioner of police, or district superintendent of police, wanted for any such purpose, he may require the postal or telegraph department, as the case may be, to cause search to be made for and to detain such document pending the orders of any such district magistrate, chief presidency magistrate or court.

Contempts of  
court.

“ *Article 123.*—(1) Any witness duly summoned, and any person who commits any contempt of court in the presence of a court-martial, or any offence described in article 56, 67 or 68, shall, if subject to these Articles, be proceeded against as the court may direct.

(2) If any such witness or person is not so subject, the president of the court-martial may certify the offence under his hand to the court of any magistrate within the local limits of whose jurisdiction it was committed, and the magistrate may thereupon take cognizance of the case, and, after hearing anything which the accused may desire to say, dispose of it as if the offence had been committed in a proceeding in the court of such magistrate.

Privileges of  
persons  
attending  
courts-  
martial.

“ *Article 124.*—(1) No president or member of a court-martial, no judge advocate or superintending officer, no party to any proceeding before a court-martial or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court-martial, shall, while proceeding to, attending on or returning from, a court-martial, be liable to arrest under civil or revenue process.

(2) If any such person is arrested under any such process, he may be discharged by order of the court-martial.

Repeal of  
articles 125  
to 129.

45. Articles 125 to 129 (both inclusive) of the said Articles are hereby repealed.

46. In article 130, clause (d), sentence 1, of the said Articles, for the words " one year " the words " two years " shall be substituted.

Amendment  
of article  
130.

47. For article 131 of the said Articles the following shall be substituted, namely :—

Substitution  
of new  
article for  
article 131.

" *Article 131.*—Dismissal from the service may accompany any other sentence passed by a court-martial."

Dismissal.

48. In article 132 of the said Articles, after the word " reduced " the words " to a lower grade or " shall be inserted.

Insertion of  
words in  
article 132.

49. For articles 133 to 137 (both inclusive) of the said Articles the following shall be substituted, namely :—

Substitution  
of new  
articles for  
articles 133  
to 137.

" *Article 133.*—In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such period ; and, when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

Solitary  
confinement.

" *Article 134.*—A non-commissioned officer sentenced by court-martial to any of the punishments specified in the second paragraph of article 132 shall be deemed to be reduced to the ranks.

Reduction  
of non-  
commission-  
ed officers to  
ranks.

" *Article 135.*—On a conviction of any offence, a general, summary general or district court-martial may, in addition to any other punishment which it is empowered to award, sentence the offender to forfeit all advantage as to additional pay and claim to pension on discharge which might otherwise have accrued from the length or nature of his former service, or to forfeit all such advantage absolutely, whether it has accrued from former service or may accrue from future service, or to forfeit service for the purpose of promotion, increased pay or pension or any other prescribed purpose, or to forfeit any military decoration or reward.

Forfeiture of  
pay and  
pension.

" *Article 136.*—Whenever a person subject to these Articles is convicted by a court-martial, his good-conduct pay shall, subject to any rules or orders which may from time to time be made with the previous sanction of the Governor General in Council, cease.

Stoppage of  
good conduct  
pay on  
conviction.

" *Article 137.*—On a conviction for any offence, if the offender is sentenced to dismissal from the service, or if his sentence involves such dismissal, he may further be sentenced to forfeit, if the court shall so direct,—

Forfeiture of  
arrears of  
pay.

(a) all or any arrears of pay and allowances or other public money due to him at the time of his dismissal, or

(b) such portion thereof as may be required to make good any proved loss or damage arising out of his offence."

Amendment  
of article 138.

50. The first paragraph of article 138 of the said Articles, and the word " and " at the beginning of the second paragraph of the same article, are hereby repealed.

Amendment  
of article 139.

51. In article 139 of the said Articles, for the words " in the case of an officer, two-thirds, or, in the case of any other person, one-half, of his " the words " one-half of the offender's " shall be substituted.

Repeal of  
articles 142  
to 149.

52. Articles 142 to 149 (both inclusive) of the said Articles are hereby repealed.

Amendment  
of articles  
150 and 151.

53. In articles 150 and 151 of the said Articles, after the word " the offender shall " the words " as soon as may be convenient " shall be inserted, and for the words " the nearest jail " the words " a jail " shall be substituted.

Addition to  
article 151.

54. To the last-named article the following proviso shall be added, namely :—

" Provided that, in the case of a sentence of such imprisonment for a period not exceeding three months, the confirming or superior authority or, in the case of a summary court-martial, the commanding officer holding the trial may direct that the sentence shall be undergone in military custody."

Amendment  
of article 152.

55. To article 152 of the said Articles the words " Subject to the control of the Commander-in-Chief in India " shall be prefixed ; and for the words " the Commander-in-Chief of a Presidency " the following words shall be substituted, namely—" the general officer of the Command."

Further  
amendment of  
same article.

56. To the second paragraph of the last-mentioned article the words " Subject as aforesaid " shall be prefixed, and in the same paragraph for the words " any Presidency " the words " a Command " shall be substituted.

Insertion of  
new words in  
article 155.

57. In article 155 of the said Articles, after the words " from the date of such sentence " the words " or, if an appeal be preferred against such sentence and fail, from the date of the disposal of such appeal " shall be inserted.

Addition to  
same article.

58. To the last-mentioned article the following shall be added, namely :—

" Provided that on active service any such person may, by order of the officer empowered under these Articles to confirm or otherwise dispose of the proceedings of the trial, be retained to serve in the ranks, and his service therein shall be reckoned as part of his term of transportation or imprisonment. "

Repeal of  
articles 156  
to 159.

59. Articles 156 to 159 (both inclusive) of the said Articles are hereby repealed.

60. For article 160 of the said Articles the following shall be substituted, namely :—

Substitution  
of new article  
for article  
160.

“Article 160.—When any person subject to these Articles has been convicted by a court-martial of any offence,—

Pardons and  
remissions.

(a) the Governor General in Council, or,

(b) when the person has been convicted of any offence other than a civil offence, the Commander-in-Chief in India or the general officer of the Command,

may—

(1) pardon the person ;

(2) remit wholly or in part any punishment awarded to him ;

(3) order the restoration to him of any service or other advantage forfeited under his sentence, or

(4) re-admit him to the service when he has been dismissed therefrom :

Provided that the general officer of the Command shall not exercise the powers conferred by this section in respect of any person, unless—

(1) the person was under his authority when sentenced ; and

(2) the person is still in the service, or, if the person has been dismissed from the service, the corps or department from which he was dismissed has since continued under the authority of that officer.”

61. In article 161 of the said Articles the words “or to the Government of Fort St. George, or to the Government of Bombay,” shall be repealed ; and for the words “Commander-in-Chief of any Presidency or of the officer commanding any force not attached to a Presidency” the following words shall be substituted, namely :—“Commander-in-Chief in India or the general officer of the Command, or of the officer commanding any force not attached to a Command.”

Amendment  
of article  
161.

62. After article 161 of the said Articles the following shall be inserted, namely :—

Addition of  
new article  
after article  
161.

“*Preservation of Proceedings.*

“Article 161A.—(1) The proceedings of all general courts-martial shall be preserved by the judge advocate general for not less than seven years, and the proceedings of summary general courts-martial and district courts-martial for not less than three years, from the date of the confirmation of the finding and sentence.

Preservation  
of proceeding  
of courts-mar-  
tial.

(2) The proceedings of regimental and summary courts-martial shall be preserved for three years with the records of the corps or department to which the prisoner belonged.

(3) Every person tried by a court-martial shall be entitled, on demand at any time after the confirmation of the finding and sentence where such confirmation is required, and before the proceedings are destroyed, to obtain from the officer or person having the custody of the proceedings a copy thereof, including the proceedings upon revision, if any, upon payment for the same at the prescribed rate."

Substitution  
of new  
article for  
article 162.

Enquiry on  
absence of  
person subject  
to articles.

63. For article 162 of the said Articles the following shall be substituted, namely :—

"Article 162.—(1) When any person subject to these Articles has been absent without due authority from his duty for a period of sixty days, a court of enquiry shall, as soon as practicable, be assembled, and, upon affirmation or oath administered in the prescribed manner, shall enquire respecting the absence of the person, and the deficiency, if any, of property of the Government entrusted to his care, or of his arms, ammunition, equipments, instruments, clothing or necessities; and, if satisfied of the fact of such absence without due authority or other sufficient cause, the Court shall declare such absence and the period thereof, and the said deficiency, if any; and the commanding officer of the corps or department to which the person belongs shall enter in the court-martial book of the corps or department a record of the declaration.

(2) If the person declared absent does not afterwards surrender, or is not apprehended, the record shall have the legal effect of a conviction of desertion.

(3) If the person declared absent surrenders or is apprehended, the record or a copy thereof purporting to bear the signature of the officer having the custody of the court-martial book shall, on the trial of the person for desertion, be presumptive evidence of the facts therein recorded; and, on proof of the identity of the prisoner with the person therein mentioned, he may be found guilty of desertion and of the deficiency, if any, therein recorded."

Amendment  
of article  
163.

64. For the last paragraph of article 163 of the said Articles the following shall be substituted, namely :—

"Such recommendation, duly confirmed by the Commander-in-Chief in India, or by the general officer of the Command, or the officer commanding any force not attached to a command to which he belongs, or by any general officer under whose command the person is serving, shall entitle him to receive such arrears and reckon service accordingly."

Substitution  
of new  
article for  
article 164.  
Reduction  
to lower grade  
or ranks.

65. For article 164 of the said Articles the following shall be substituted, namely :—

"Article 164.—The Commander-in-Chief in India, the general officer of the Command, the officer commanding any force not attached to a command, and

the officer commanding any district or division or brigade, shall respectively have power to reduce to a lower grade or to the ranks any non-commissioned officer under his command."

66. In article 165 of the said Articles, for the words "No such minor punishment shall be awarded by a court-martial," to the end of the article the following shall be substituted, namely :—

Amendment  
of article  
165.

"Unless otherwise specially provided by the said Commander-in-Chief, no Native officer, medical subordinate or warrant officer shall be liable to any such minor punishment.

"Good-conduct pay shall not necessarily be forfeited on the infliction of a minor punishment, but forfeiture thereof may be awarded as a substantive punishment, by order of the commanding officer, as may from time to time be prescribed in the General Orders of the Commander-in-Chief in India.

"Forfeiture of good-conduct pay may be awarded in addition to any other minor punishment."

67. In article 166 of the said Articles, the words "the Governor of Fort St. George in Council, the Governor of Bombay in Council, or any other Local Government" shall be omitted.

Amendment  
of article  
166.

68. In Article 168 of the said Articles, for the words "the Commander-in-Chief of the Presidency" the words "the Commander-in-Chief in India or the general officer of the Command" shall be substituted.

Amendment  
of article  
168.

69. In the second paragraph of article 169 of the said Articles, for the words "warrant officer" the words "non-commissioned officer" shall be substituted.

Amendment  
of article  
169.

70. The second and third paragraphs of article 170 of the said Articles are hereby repealed.

Repeal of  
part of  
article 170.

71. For articles 171 to 175 (both inclusive) of the said Articles the following shall be substituted, namely :—

Substitution  
of new  
articles for  
articles 171  
to 175.

"Article 171.—Every person subject to these Articles who at any place beyond British India commits any civil offence shall be deemed to be guilty of an offence against military law and if charged therewith under this article shall subject to the provisions of these articles be liable to be tried for the same by court-martial at any place whether within or beyond British India, and on conviction to be punished as follows, that is to say :—

Military  
jurisdiction  
with respect  
to civil  
offences.

(a) if the offence is one which would be punishable under the law of British India with death or with transportation, or with imprisonment for

a term exceeding three years, he shall be liable to suffer any punishment assigned for the offence by the law of British India ; and

(b) in other cases, he shall be liable to suffer any punishment assigned for the offence by the law of British India or such punishment as might be awarded to him in pursuance of these Articles in respect of an act to the prejudice of good order and Military discipline.

Extension of  
article 171  
to certain  
civil offences.

“ *Article 172.*—The Governor General in Council may, by notification, extend the last foregoing article to civil offences or any class of those offences committed by a person subject to these Articles when on active service in British India, and may cancel any such notification.

Certain  
offences  
when triable  
by military  
law.

“ *Article 173.*—Every person subject to these Articles who, whether within or beyond British India, commits or attempts to commit or abets the commission of any of the following offences against any person subject to military law, that is to say, murder, culpable homicide or any offence punishable under any of the sections 323 to 335 (both inclusive) or section 506 of the <sup>1</sup>Indian Penal Code, shall be deemed to be guilty of an offence against military law, and if charged under this article with any such offence shall, subject to the provisions of these Articles, be liable to be tried by court-martial at any place whether within or without British India, and on conviction shall be liable to suffer any punishment assigned for the offence by the said Code. XLV of 1860.

Jurisdiction  
over certain  
offences.

“ *Article 174.*—When under any of the foregoing Articles a criminal court and a court-martial have each jurisdiction in respect of an offence, it shall be in the discretion of the prescribed military authority to decide before which court the proceedings shall be instituted, and, if that authority decides that they shall be instituted before a court-martial, to direct that the accused person shall be detained in military custody.

Power of  
criminal  
court to  
require  
delivery of  
offender.

“ *Article 175.*—(1) When a criminal court having jurisdiction is of opinion that proceedings ought to be instituted before itself in respect of any alleged offence, it may, by written notice, require the convening authority or the prescribed military authority at his option either to deliver over the offender to the nearest magistrate to be proceeded against according to law or to postpone proceedings pending a reference to the Governor General in Council.

“ (2) In every such case the said authority shall either deliver over the offender in compliance with the requisition or shall forthwith refer the question as to the court before which the proceedings are to be instituted for the determination of the Governor General in Council, whose order upon such reference shall be final.”

72. For articles 176 to 179 (both inclusive) of the said Articles the following shall be substituted, namely :—

Substitution  
of new  
articles for  
articles 176  
to 179.

“ TITLE VI.—PROPERTY OF DECEASED PERSONS AND DESERTERS.

“ *Article 176.*—The following rules are enacted respecting the disposal of the property of every person who belongs to a class subject to these Articles, who dies, is killed in the field or deserts :—

Property of  
deceased  
persons,  
deserters and  
lunatics.

(1) The commanding officer shall secure all the moveable property that is on the spot, and cause an inventory thereof to be made, and draw any pay and allowances due to the deceased or deserter.

(2) In the case of a deceased person who has left in a Government Savings Bank (including any Post Office Savings Bank, however named) a deposit not exceeding one thousand rupees, the commanding officer may, if he thinks fit, require the secretary or other proper officer of the bank to pay the deposit to him forthwith notwithstanding anything in any departmental rules ; and, after the payment thereof in accordance with such requisition, no person shall have any right in respect of the deposit except as hereinafter provided.

(3) In the case of a deceased person whose representative is on the spot and has given security for the payment of the regimental debts (if any) of the deceased, the commanding officer shall deliver over the property and the amount of the deposit (if any) received under clause (2) of this Article to that representative.

(4) In the case of a deceased person whose estate is not dealt with under clause (3) of this Article, and in the case of any deserter, the commanding officer shall cause the property to be sold by public auction, and shall pay the regimental debts and other debts in camp or quarters (if any), and in the case of a deceased person the expenses of his funeral ceremonies, from the proceeds of the sale and the amount of the deposit (if any) received under clause (2) of this Article.

(5) The surplus, if any, shall in the case of a deceased person be paid to his representative, if any, or in the event of no claim to such surplus being established within twelve months after the death, then the same shall be remitted to the prescribed officer.

(6) In the case of the sale of the effects of a deserter the amount remaining in the hands of the commanding officer shall be forthwith remitted to the prescribed officer.

“ *Article 177.*—Property deliverable and money payable to the representative of a deceased person under the last foregoing Article may, if the total value

Disposal of  
certain  
property



without  
production  
of probate,  
etc.

or amount thereof does not exceed one thousand rupees, and if the prescribed officer thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title; and such delivery or payment shall be a full discharge to those ordering or making the same and to the Secretary of State for India in Council from all further liability in respect of the property or money; but nothing in this Article shall affect the rights of any executor or administrator or other representative, or of any creditor, of a deceased person against any person to whom such delivery or payment has been made.

Meaning of  
desertion in  
Article 176.

"Article 178.—A person shall be deemed to have deserted within the meaning of Article 176 who has been convicted of desertion, or who has been illegally absent from duty for a period of sixty days and has not subsequently surrendered or been apprehended.

Application  
of Article  
176 to  
lunatics.

"Article 179.—The provisions of the last-mentioned Article shall, so far as they can be made applicable, apply in the case of a person subject to these Articles becoming insane, such allowance being made for his support as is authorised by the <sup>1</sup>Military Lunatics Act, 1877."

XI of 1877.

Substitution  
of new Part  
for Part III.

73. For Part III of the said Articles the following shall be substituted, namely :—

#### "PART III.—MISCELLANEOUS.

Prohibition  
of second  
trial.

"Article 180.—When any person subject to these Articles has been acquitted or convicted of an offence by a court-martial or by a criminal court, or has been summarily dealt with for an offence under Article 165 or 166, he shall not be liable to be again tried for the same offence by a court-martial or dealt with summarily in respect of it under either of the said Articles.

Exemption  
from arrest  
for debt.

"Article 181.—(1) No person subject to these Articles shall, so long as he belongs to Her Majesty's Indian Forces, be liable to be arrested for debt under any process issued by, or by the authority of, any civil or revenue court or revenue-officer.

(2) The judge of any such court may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of this Article, and may by warrant under his hand discharge the person, and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining the process.

(3) For the recovery of such costs no fee whatever shall be payable to the court by the complainant.

" *Article 182.*—Neither the arms, clothes, equipment, accoutrements or necessities of any person subject to these Articles, nor any animal used by him for the discharge of his duty, shall be seized ; nor shall the pay and allowances of any such person or any part thereof be attached, by direction of any civil or revenue court or any revenue-officer, in satisfaction of any decree or order enforceable against him. Property exempted from attachment.

" *Article 183.*—Every person belonging to the Indian Reserve Forces shall, when called out for or engaged upon or returning from training or service, as an officer or soldier, be entitled to all the privileges accorded by the two last foregoing Articles to a person subject to these Articles. Application of the last two foregoing articles to reservists.

" *Article 184.*—(1) On the presentation to any court by or on behalf of any officer or soldier subject to these Articles of a certificate from the proper military authority, of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, the court shall, on the application of such officer or soldier, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for. Priority of hearing by courts of cases in which Native officers and soldiers are concerned.

(2) The certificate from the proper military authority must state the first and last day of the leave or intended leave, and set forth a description of the case with respect to which the leave was granted or applied for.

(3) No fee whatever shall be payable to the court in respect of the presentation of any such certificate or in respect of any application by or on behalf of any such officer or soldier for priority for the hearing of his case.

(4) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for having been unable to do so, and shall cause a copy thereof to be furnished to such officer or soldier on his application, without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(5) If in any case a question arises as to the proper military authority qualified to grant such certificate as aforesaid, such question shall be at once referred by the court to the nearest officer commanding a corps, whose decision shall be final.

" *Article 185.*—(1) Whenever any person subject to these Articles deserts, the commanding officer of the corps, department or detachment to which he Capture of deserters.

belongs shall give written information of the desertion to such civil, political or police authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose capture a warrant had been issued by a magistrate, and shall deliver the deserter, when apprehended, to military custody.

(2) Such authorities shall also, by such means as appear to them best adapted for the purpose, prevent persons reasonably believed to be subject to these Articles from travelling through the areas subject to their jurisdiction unless on duty, or furnished with a certificate of leave or discharge.

(3) Any police-officer may arrest, without warrant, any person reasonably believed to be subject to these Articles and to be travelling without authority, and shall bring him without delay before the nearest magistrate, or the nearest military commanding officer when no magistrate is readily accessible, to be dealt with according to law.

Apprehen-  
sion of mili-  
tary offend-  
ers.

“*Article 186.*—Whenever any person subject to these Articles, who is accused of any military offence, is within the jurisdiction of any civil, political or police-officer, such officer shall aid in the apprehension and delivery to military custody of such person upon receipt of a written application to that effect signed by his commanding officer.

Presumption  
as to signa-  
tures.

“*Article 187.*—In any proceeding under these Articles, any application, certificate, warrant, reply, or other document purporting to be signed by an officer in the civil or military service of the Government shall, on production, be presumed to have been duly signed by the person and in the character by whom and in which it purports to have been signed, until the contrary is shown.

Portions  
of the forces  
under an  
Army Com-  
mand.

“*Article 188.*—(1) The Governor General in Council may direct that for the purposes of these Articles—

- (a) any portion of Her Majesty's Indian Forces belonging to a Command shall, when serving beyond the ordinary limits of the Command, continue subject to the authority of the general officer of the Command; or
- (b) any portion of those forces not belonging to a Command shall be attached to a Command and shall be subject to the authority of the general officer of the Command.

(2) Except as may be directed under clause (1) of this Article, any portion of the said forces shall, when serving in a Command, be for the purposes of these Articles subject to the authority of the general officer of that Command.

" *Article 189.*—Nothing in these Articles shall be deemed to affect the authority conferred on the Commander-in-Chief in India by any Act of Parliament or by Royal Warrant or Commission.

Saving of authority of Commander-in-Chief in India.

" *Article 190.*—(1) The Governor General in Council may, by notification, make rules consistent with these Articles to regulate the procedure of courts-martial and officers, military, civil or political, having any jurisdiction or authority under these Articles, and for the purpose of carrying these Articles into execution, so far as relates to the investigation, trial and punishment of offences triable under them.

Power to make rules.

(2) Rules under this Article may provide among other matters for the following :—

- (a) the assembly and procedure of courts of enquiry ;
- (b) the convening and constituting of courts-martial ;
- (c) the adjournment, dissolution and sittings of courts-martial ;
- (d) the procedure to be observed in trials by courts-martial ;
- (e) the confirmation and revision of the findings and sentences of courts-martial ;
- (f) the carrying into effect sentences of courts-martial ;
- (g) the forms of orders to be made under the provisions of these Articles relating to courts-martial, transportation or imprisonment.

(3) The Governor General in Council may by any such rule confer on any court-martial or officer any power (other than a power to try an accused person or pass a sentence) conferred on a court of original jurisdiction by the <sup>1</sup> Code of Criminal Procedure, 1882.

" *Article 191.*—(1) The Governor General in Council may, by notification, apply all or any of the provisions of these Articles to any force raised and maintained in India under the authority of the Governor General in Council and may cancel or modify any such notification.

Power to apply Articles to certain forces under the Government of India.

(2) While any of the provisions of these Articles apply to any such force, the Governor General in Council may, by notification, direct by what authority any jurisdiction, powers or duties incident to the operation of those provisions shall be exercised or performed in respect to that force."

74. *After the Appendix to the said Articles the Second Appendix<sup>2</sup> set out in the schedule to this Act shall be added.*

Addition of Second Appendix to Articles.

<sup>1</sup> See now the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

<sup>2</sup> This Appendix has now been repealed, see s. 3 (b) of Act 13 of 1904, Genl. Acts, Vol. VI.

*(The Schedule.)*

## THE SCHEDULE.

*(See Section 74.)*

### <sup>1</sup>THE SECOND APPENDIX.

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<sup>1</sup> This Appendix was repealed by s. 3 (b) of the Indian Articles of War Amendment Act, 1904 (13 of 1904), Genl. Acts, Vol. VI.

ACT No. XIII OF 1894.<sup>1</sup>

[12th October, 1894.]

An Act to amend certain enactments relating to the Army.

WHEREAS it is expedient to amend certain enactments relating to the Army in manner hereinafter appearing ; It is hereby enacted as follows :—

1. (1) This Act may be called the \* \* <sup>2</sup> Amending (Army) Act, 1894 ; and

Title and  
commence-  
ment.

(2) It shall come into force on such date as the Governor General in Council may, by <sup>3</sup>notification in the Gazette of India, fix in that behalf.

2. (1) [*Repeal and amendment of enactments.*] *Rep. Act I of 1903.*

(2) The enactments specified in the second schedule are hereby modified to the extent and in the manner mentioned in the third column thereof.

### THE FIRST SCHEDULE.

#### ENACTMENT REPEALED.

(Rep. Act 1 of 1903.)

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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1894, Pt. V, p. 134 ; for Report of the Select Committee, see *ibid*, p. 159 and for Proceedings in Council, see *ibid*, Pt. VI, pp. 227, 233 and 239.

<sup>2</sup> The words "Repealing and" were repealed by the Repealing and Amending Act, 1903 (1 of 1903), General Acts, Vol. V.

<sup>3</sup> The 1st April, 1895, see Notification No. 1019, dated 2nd November, 1894, Genl. Stat. R. and O., Vol. III.

## THE SECOND SCHEDULE.

## ENACTMENTS AMENDED.

Number and year.	Title or subject.	Amendments.
1	2	3

*Act of the Governor General in Council.*

<sup>1</sup> XI of 1877	Military Lunatics Act, 1877.	<p>In section 3, <i>for</i> Act for punishing Mutiny and Desertion and for the better payment of the Army and their quarters for the time being in force <i>read</i> Army Act; <i>for</i> military regulations of the Presidency to which he belongs <i>read</i> military regulations in force for the time being; <i>for</i> one of the Surgeons-General, either of the British Forces or of the Indian Medical Service, according to the Presidency and the service to which the said lunatic belongs <i>read</i> the Principal Medical Officer of Her Majesty's Forces in India, the Surgeon-General with the Government of India, the Surgeon-General with the Government of Madras, the Surgeon-General with the Government of Bombay, or the Principal Medical Officer of the "Command" to which the said lunatic belongs; <i>and for</i> such Surgeon-General <i>and</i> the Surgeon-General <i>read</i> such Principal Medical Officer or Surgeon-General.</p> <p>In sections 3, 6 and 7, <i>for the words</i> local military regulations, <i>wherever they occur, read</i> military regulations.</p>
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*Regulations of the Madras Code.*

<sup>2</sup> VII of 1808	Power to establish martial law.	In the title, in the first place in which the words occur in the preamble, in section 2 and in section 4, <i>for</i> Governor in Council <i>read</i> Governor General in Council.
<sup>3</sup> VIII of 1817	Sepoy Malguzars	<p>In the title, <i>for</i> on the military establishment of the Presidency of Fort St. George <i>read</i> in the Madras Command.</p> <p>In section 9, clause <i>first</i>, <i>for</i> on the military establishment under the Presidency of Fort St. George <i>read</i> in the Madras Command.</p>

<sup>1</sup> Genl. Acts, Vol. II.<sup>2</sup> Mad. Code, Vol. I.<sup>3</sup> Mad. Code, Vol. I.

ACT No. I of 1895.<sup>1</sup>

[4th January, 1895.]

An Act to amend the <sup>2</sup>Presidency Small Cause Courts Act, 1882.

XV of 1882. WHEREAS it is expedient to amend the <sup>3</sup>Presidency Small Cause Courts Act, 1882; It is hereby enacted as follows :—

1. (1) This Act may be called the Presidency Small Cause Courts Act, 1895; and

Title and  
commence-  
ment.

(2) It shall come into force on the first day of April, 1895.

XV of 1882. 2. In section 6 of the <sup>3</sup>Presidency Small Cause Courts Act, 1882, herein- after referred to as “ the said Act,” after the words “ Code of Civil Proce- dure” the following shall be added, namely :—

Amendment  
of section 6,  
Act XV,  
1882.

“ and to be a Court subordinate to the High Court within the meaning of section 6 of the Legal Practitioners Act, 1879.”

XVIII of  
1879.

3. (1) For the proviso to the first paragraph of section 7 of the said Act the following shall be substituted, namely :—

Amendment  
of section 7,  
Act XV,  
1882.

“ Provided that no person shall be appointed to be a Judge of such Court, or be authorized to exercise the powers of a Judge of such Court, unless he is—

(a) an advocate of a High Court of Judicature established under the

24 & 25 Vict.,  
c. 104.

<sup>3</sup>Indian High Courts Act, 1861, or

(b) a vakil or attorney of any such High Court, or

(c) a Judge of a Court of Civil Judicature of not less than five years' standing :

and that not less than one-third of the persons so appointed, including the Chief Judge, shall be advocates of one of the said High Courts.”

(2) The last paragraph of section 7 of the said Act is hereby repealed.

4. [Insertion of new section after section 8, Act XV, 1882.] Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1893, Pt. V, p. 9; for Report of the Select Committee, see *ibid*, 1894, Pt. V, p. 103 and for Proceedings in Council, see *ibid*, 1893, Pt. VI, pp. 4 and 76; *ibid*, 1894, Pt. VI, pp. 2 and 209; *ibid*, 1895, Pt. VI, p. 29.

<sup>2</sup> Genl. Acts, Vol. III.

<sup>3</sup> Coll. Stat., India, Vol. I.



Substitution  
of new sec-  
tion for sec-  
tion 9, Act  
XV, 1882,  
and tempor-  
ary continu-  
ance of  
existing  
procedure  
and practice.

5. For section 9 of the said Act the following shall be substituted, namely :—

Procedure  
and practice  
of Small  
Cause Court.

“9. (1) The High Court may from time to time, by rules having the force of law,—

(a) prescribe the procedure to be followed and the practice to be observed by the Small Cause Court either in supersession of or in addition to any provisions which were prescribed with respect to the procedure or practice of the Small Cause Court on or before the thirty-first day of December, 1894, in or under this Act or any other enactment for the time being in force, and

(b) cancel or vary any such rule or rules.

“Rules made under this section may provide, among other matters, for the exercise by one or more of the Judges of the Small Cause Court of any powers conferred on the Small Cause Court by this Act, or any other enactment for the time being in force.

“(2) The law, and any rules and declarations made, or purporting to be made, thereunder, with respect to procedure or practice, in force or treated as in force in the Small Cause Court on the thirty-first day of December, 1894, shall be in force, unless and until cancelled or varied by rules made by the High Court under this section.”

Addition to  
section 14,  
Act XV,  
1882.

6. To section 14 of the said Act the following shall be added, namely :—

“*Explanation.*—For the purposes of this section an application for possession under section 41 shall be deemed to be a suit.”

Addition to  
section 18,  
Act XV,  
1882.

7. To section 18 of the said Act the following proviso shall be added immediately before the first *explanation*, namely :—

“Provided that where the cause of action has arisen wholly within the local limits aforesaid, and the Court refuses to give leave for the institution of the suit, it shall record in writing its reasons for such refusal.”

Addition to  
section 18,  
Act XV,  
1882.

8. After section 18 of the said Act the following shall be added, namely :—

Plaintiff may  
abandon suit  
against de-  
fendant resi-

“18A. The Small Cause Court may allow a plaintiff at or before the first hearing of a suit in which a joint and several liability is alleged on a cause of action arising either wholly or in part within the local limits of the

jurisdiction of the Court, to abandon the suit as against any defendant who does not reside or carry on business or personally work for gain within such local limits, and to sue for a decree against such defendants only as do so reside, carry on business or personally work for gain."

9. To section 19 of the said Act the following shall be added, namely :—

Addition to section 19, Act XV, 1882.  
Return of plaint.

" 19A. Whenever the Court finds that for want of jurisdiction it cannot finally determine the question at issue in the suit, it may at any stage of the proceedings return the plaint to be presented to a Court having jurisdiction to determine the question. When the Court so returns a plaint, it shall comply with the provisions of the second paragraph of section 57 of the <sup>1</sup> Code of Civil Procedure and make such order with respect to costs as it may think just, and the Court shall for the purposes of the <sup>2</sup> Indian Limitation Act, 1877, be deemed to have been unable to entertain the suit by reason of defect of jurisdiction. When a plaint so returned is afterwards presented to a High Court, credit shall be given to the plaintiff for the amount of the court-fee paid in the Small Cause Court in respect of the plaint in the levy of any fees which according to the practice of the High Court are credited to the Government."

XIV of 1892.

XV of 1877.

10. In section 21 of the said Act, after the words "or value thereof" the words "and all suits whereof the amount or value of the subject-matter exceeds one thousand rupees" shall be inserted.

Amendment of section 21, Act XV, 1882.

11. In section 22 of the said Act, for the words "two thousand" the words "one thousand" shall be substituted.

Amendment of section 22 Act XV, 1882.

12. Section 23 of and the second schedule to the said Act are hereby repealed.

Repeal of Act XV, 1882, section 23, and second schedule  
Substitution of new Chapter for Chapter VI, Act XV, 1882.

13. For Chapter VI of the said Act the following shall be substituted, namely :—

## "CHAPTER VI.

### "NEW TRIALS AND APPEALS.

" 37. Save as otherwise provided by this Chapter or by any other enactment for the time being in force, every decree and order of the Small Cause Court in a suit shall be final and conclusive.

General finality of decrees and orders of Small Cause Court.

<sup>1</sup> See now rule 10, Order VII, in the first schedule to the Civil Procedure Code, 1908 (Act of 1908), Genl. Acts, Vol. VI.

<sup>2</sup> See now Act 9 of 1908, Genl. Acts, Vol. VI.

New trial of  
contested  
cases.

" 38. Where a suit has been contested, the Small Cause Court may, on the application of either party, made within eight days from the date of the decree or order in the suit (not being a decree passed under section 522 of the <sup>1</sup>Code of Civil Procedure), order a new trial to be held, or alter, set aside or reverse the decree or order, upon such terms as it thinks reasonable, and may, in the meantime, stay the proceedings. XIV of 1882.

" *Explanation*.—Every suit shall be deemed to be contested in which the decree is made otherwise than by consent of or in default of appearance by the defendant.

Removal of  
certain causes  
into High  
Court.

" 39. (1) In any suit instituted in a Small Cause Court in which the amount or value of the subject-matter exceeds the sum of one thousand rupees the defendant or any one of the defendants may, before the day fixed by the summons for the appearance of the defendant or within eight days after the service of the summons on him, whichever period shall last expire, apply *ex parte* on an affidavit setting forth the facts on which he relies for his defence to a Judge of the High Court for an order removing the cause into the High Court.

" (2) Unless the Judge is of opinion that the application has been made solely for the purpose of delay, the applicant shall be entitled to such order as of right, but it shall be lawful for the Judge, if he shall think fit, in and by such order to require the applicant to give security to a reasonable amount to be specified in the order for the payment of any costs which may become payable by him to the plaintiff in respect of the said suit, and such Judge may also, if he shall think fit, declare that the removal directed by such order shall be conditional upon the completion of such security within a reasonable time to be prescribed in the order.

" (3) If the applicant fail or neglect to complete the required security (if any) within the prescribed time (if any), the said order shall be discharged and the suit shall proceed in the Small Cause Court as if such order had never been made.

" (4) If the plaintiff in any case which has been removed under this section into the High Court has abandoned a portion of his claim in order to be able to bring the suit within the jurisdiction of a Small Cause Court, he shall be permitted to revive the portion of his claim so abandoned.

Rules with  
respect to  
suits removed  
under the  
last foregoing  
section.

" 40. (1) When a suit has been removed into the High Court under the last foregoing section, it shall be heard and disposed of by such Court in the exercise of its original jurisdiction, and the said Court shall have all the same powers and jurisdiction in respect thereof as if it had been originally instituted in such Court.

<sup>1</sup> See now rule 16 in the second schedule to Act 5 of 1908, Genl. Acts, Vol. VI.

XIV of 1882.

“(2) In every suit so removed as aforesaid the affidavit filed under section 39, sub-section (1), shall be treated as a written statement of the defendant tendered under section 110 of the <sup>1</sup>Code of Civil Procedure unless the Court shall otherwise order. .

“(3) In every suit so removed as aforesaid credit shall be given to the plaintiff for the amount of the court-fee paid in the Small Cause Court in respect of the plaint in the levy of any fees which according to the practice of the High Court are payable to the Government.”

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ACT No. III of 1895.<sup>2</sup>

[8th February, 1895.]

An Act to amend the <sup>3</sup>Indian Penal Code,<sup>4</sup> Act VI of 1864 and the <sup>5</sup>Indian Post-office Act, 1866.

XLV of 1860.  
XIV of 1866.

WHEREAS it is expedient to amend the <sup>3</sup>Indian Penal Code,<sup>4</sup> Act VI of 1864 and the <sup>5</sup>Indian Post-office Act, 1866 ; It is hereby enacted as follows :—

<sup>3</sup>Indian Penal Code.

XLV of 1860.

1. For section 182 of the <sup>3</sup>Indian Penal Code the following shall be substituted, namely :—

Substitution of new section for section 182, Act XLV, 1860.

“182. Whoever gives to any public servant any information which he

False information with

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<sup>1</sup> See now rule 1, Order VIII, in the first schedule to Act 5 of 1908, Genl. Acts, Vol. VI.

<sup>2</sup> Short title, “The Indian Criminal Law Amendment Act, 1895.” See the Indian Short Titles Act, 1837 (14 of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1894, Pt. V, p. 95 ; for Report of the Select Committee, see *ibid*, 1895, Pt. V, p. 19 and for Proceedings in Council, see *ibid*, 1894, Pt. VI, p. 151 ; *ibid*, 1895, Pt. VI, pp. 37 and 116 to 124.

This Act is in force in Upper Burma (except the Shan States) in so far as it amends Act 45 of 1860. That Act as amended to date was declared in force there by s. 4 and the First Schedule to the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

It has also been declared in force in the Sonthal Parganas by s. 3 of the Sonthal Parganas Settlement Regulation (3 of 1872), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), Ben. Code, Vol. I.

So far as this Act amends the Whipping Act, 1864 (6 of 1864), it has been extended to the Districts of Sylhet, Kamrup, Nowgong, Darrang, Sibsagar, Lakhimpur, Cachar (excluding the North Cachar Hills) and Goalpara (excluding the Eastern Duars). See Gazette of India, 1896, Pt. I, p. 302.

<sup>3</sup> Genl. Acts, Vol. I.

<sup>4</sup> Genl. Acts, Vol. I.

<sup>5</sup> Act 14 of 1866 has been repealed by the Indian Post-office Act, 1898 (6 of 1898), which was declared in force in Upper Burma (except the Shan States) by s. 4 of the Burma Laws Act, 1898 (13 of 1898).

intent to  
cause public  
servant to  
use his law-  
ful power to  
the injury of  
another  
person.

knows or believes to be false, intending thereby to cause or knowing it to be likely that he will thereby cause, such public servant—

(a) to do or omit anything which such public servant ought not to do or omit, if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

*“ Illustrations.*

“(a) A informs a Magistrate that Z, a police-officer subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this section.

“(b) A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this section.

“(c) A falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person as one of his assailants, but knows it to be likely that in consequence of this information the Police will make enquiries and institute searches in the village to the annoyance of the villagers or some of them. A has committed an offence under this section.”

2. To Chapter XII of the said Code the following shall be added, namely:—

“ 263A. (1) Whoever—

(a) makes, knowingly utters, deals in or sells any fictitious stamp, or knowingly uses for any postal purpose any fictitious stamp, or

(b) has in his possession, without lawful excuse, any fictitious stamp, or

(c) makes or, without lawful excuse, has in his possession any die, plate, instrument or materials for making any fictitious stamp,

shall be punished with fine which may extend to two hundred rupees.

“(2) Any such stamp, die, plate, instrument or materials in the possession of any person for making any fictitious stamp may be seized and shall be forfeited.

“(3) In this section ‘ fictitious stamp ’ means any stamp falsely purporting to be issued by Government for the purpose of denoting a rate of postage,

Addition of  
section to  
Chapter XII,  
Act XLV,  
1860.

Prohibition  
of fictitious  
stamps.

*Whipping.*

or any facsimile or imitation or representation, whether on paper or otherwise, of any stamp issued by Government for that purpose.

“(4) In this section and also in sections 255 to 263, both inclusive, the word ‘Government,’ when used in connection with, or in reference to, any stamp issued for the purpose of denoting a rate of postage, shall, notwithstanding anything in section 17, be deemed to include the person or persons authorised by law to administer executive government in any part of India, and also in any part of Her Majesty’s dominions or in any foreign country.”

3. For section 294 of the said Code the following shall be substituted, namely :—

Substitution  
of new section  
for section  
294, Act XLV,  
1860.

“294. Whoever, to the annoyance of others,

(a) does any obscene act in any public place, or

(b) sings, recites or utters any obscene song, ballad or words, in or near any public place,

Obscene acts  
and songs.

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.”

4. After section 477 of the said Code the following shall be added, namely :—

Addition of  
new section  
after section  
477, Act  
XLV, 1860.

“477A. Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, wilfully, and with intent to defraud, destroys, alters, mutilates or falsifies any book, paper, writing, valuable security or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or wilfully, and with intent to defraud, makes or abets the making of any false entry in, or omits, or alters or abets the omission or alteration of any material particular from or in any such book, paper, writing, valuable security or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Falsification  
of accounts.

“*Explanation.*—It shall be sufficient in any charge under this section to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud, or any particular day on which the offence was committed.”

*Act VI of 1864.<sup>1</sup>*

<sup>2</sup> 5. For sections 2, 3 and 4 of Act VI of 1864 (an Act to authorise the

Substitution  
of new sec-

<sup>1</sup> Rep. Act 4 of 1909. See App. II to Genl. Acts, Vol. VI.

<sup>2</sup> S. 5 was repealed by the Whipping Act, 1909 (4 of 1909), while this Act was passing through the Press. See App. II to Genl. Acts, Vol. VI.

tions for sections 2, 3 and 4, Act VI, 1864.

Offences punishable with whipping in lieu of other punishment prescribed by Penal Code.

*punishment of whipping in certain cases) the following shall be substituted, namely :—*

*“ 2. Whoever commits any of the following offences may be punished with whipping in lieu of any punishment to which he may for such offence be liable under the <sup>1</sup>Indian Penal Code, that is to say :—*

XLV of 1860.

*Group A.*

- (1) *theft, as defined in section 378 of the said Code ;*
- (2) *theft in a building, tent or vessel, as defined in section 380 of the said Code ;*
- (3) *theft by a clerk or servant, as defined in section 381 of the said Code ;*
- (4) *theft after preparation for causing death or hurt, as defined in section 382 of the said Code ;*

*Group B.*

- (5) *extortion by threat, as defined in section 388 of the said Code ;*
- (6) *putting a person in fear of accusation in order to commit extortion, as defined in section 389 of the said Code ;*

*Group C.*

- (7) *dishonestly receiving stolen property, as defined in section 411 of the said Code ;*
- (8) *dishonestly receiving property stolen in the commission of a dacoity, as defined in section 412 of the said Code ;*

*Group D.*

- (9) *lurking house-trespass, or house-breaking, as defined in sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this section ;*
- (10) *lurking house-trespass by night or house-breaking by night, as defined in sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section.*

On second conviction of offence mentioned in section 2, whipping may be added to other punishment.

*“ 3. Whoever, having been previously convicted of any one of the offences specified in the last preceding section, shall again be convicted of the same offence or of any offence included in the same group of offences, may be punished with whipping in lieu of or in addition to any other punishment to which he may for such offence be liable under the <sup>1</sup>Indian Penal Code.*

XLV of 1860

“4. *Whoever, having been previously convicted of any one of the following offences, shall be again convicted of the same offence, or of any offence included in the same group of offences, may be punished with whipping in addition to any other punishment to which he may be liable under the* <sup>1</sup>*Indian Penal Code, that is to say:—*

Offences punishable, in case of second conviction, with whipping in addition to other punishment.

*Group A.*

- (1) *giving or fabricating false evidence in such manner as to be punishable under section 193 of the Indian Penal Code ;*
- (2) *giving or fabricating false evidence with intent to procure conviction of a capital offence, as defined in section 194 of the said Code ;*
- (3) *giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment, as defined in section 195 of the said Code ;*

*Group B.*

- (4) *falsely charging any person with having committed an unnatural offence, as defined in sections 211 and 377 of the said Code ;*

*Group C.*

- (5) *assaulting or using criminal force to any woman with intent to outrage her modesty, as defined in section 354 of the said Code ;*
- (6) *rape, as defined in section 375 of the said Code ;*
- (7) *unnatural offences, as defined in section 377 of the said Code ;*

*Group D.*

- (8) *robbery or dacoity, as defined in sections 390 and 391 of the said Code ;*
- (9) *attempting to commit robbery, as defined in section 393 of the said Code ;*
- (10) *voluntarily causing hurt in committing robbery, as defined in section 394 of the said Code ;*

*Group E.*

- (11) *habitually receiving or dealing in stolen property, as defined in section 413 of the said Code ;*

*Group F.*

- (12) *forgery, as defined in section 463 of the said Code ;*
- (13) *forgery of a document, as defined in section 466 of the said Code ;*

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<sup>1</sup> Genl. Acts, Vol. I.



- (14) *forgery of a document, as defined in section 467 of the said Code ;*
- (15) *forgery for the purpose of cheating, as defined in section 468 of the said Code :*
- (16) *forgery for the purpose of harming the reputation of any person, as defined in section 469 of the said Code ;*

*Group G.*

- (17) *lurking house-trespass, or house-breaking, as defined in sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this section ;*
- (18) *lurking house-trespass by night or house-breaking by night, as defined in sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section."*

6. [Addition of explanation to section 5, Act VI of 1864.] *Rep. by the Whipping Act, 1900 (5 of 1900), s. 4.*

*The portion relating to the Indian Post Office Act, 1866 (XIV of 1866), has been repealed by the Indian Post Office Act, 1898 (VI of 1898).*

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ACT No. VIII OF 1895.<sup>1</sup>

[1st March, 1895.]

An Act to amend <sup>2</sup> Act V of 1861 (*an Act for the Regulation of Police*).

WHEREAS it is expedient to amend Act V of 1861 (*an Act for the Regulation of Police*) ; It is hereby enacted as follows :—

1. In section 1 of the said Act the following shall be inserted between the interpretations of the words “ general police-district ” and the word “ property,” namely :—

Addition to interpretation-clause, section 1, Act V, 1861.

“ The words ‘ District Superintendent ’ and ‘ District Superintendent of Police ’ shall include any Assistant District Superintendent or other person appointed by general or special order of the Local Government to perform all or any of the duties of a District Superintendent of Police under this Act in any district.”

2. In section 7 of the said Act, in lieu of the words beginning “ or fine any police-officer ” down to the end of the section, the following shall be substituted, namely :—

Amendment of section 7, Act V, 1861, respecting minor punishments.

“ or may award any one or more of the following punishments to any police-officer ” who shall discharge his duty in a careless or negligent manner or who by any act of his own shall render himself unfit for the discharge thereof, namely :—

(a) fine to any amount not exceeding one month’s pay ;

(b) confinement to quarters for a term not exceeding fifteen days, with or without punishment drill, extra guard, fatigue or other duty ;

<sup>1</sup> Short title, “ The Police Act (1861) Amendment Act, 1895,” see the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1894, Pt. V, p. 166 ; for Report of the Select Committee, see *ibid*, 1895, Pt. V, p. 35, and for Proceedings in Council, see *ibid*, 1894, Pt. VI, p. 242 ; *ibid*, 1895, Pt. VI, pp. 71, 140 and 156.

<sup>2</sup> This Act is in force in Upper Burma (except the Shan States) as being part of the principal Act, 5 of 1861, which has been declared in force there by the Burma Laws Act, 1898 (13 of 1898), see s. 4 and the First Schedule to that Act, Bur. Code ;

in the Shan States, excluding Khamti Long and Mong Mit, as being part of the principal Act extended there by the Shan States Laws and Criminal Justice Order, 1895, see Bur. Gazette, 1895, Pt. I, pp. 262 and 542, respectively.

The Act is also in force in the Porahat Estate in the Singbhum District, as being part of the principal Act, 5 of 1861, declared in force there by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), see Gazette of India, 1897, Pt. I, p. 1059.

Ss. 15, 15A, 16, 30, 30A, 31 and 32 of the principal Act as amended by this Act, have been extended by notification under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), to the Scheduled Districts in Ganjam and Vizagapatam, see Gazette of India, 1898, Pt. I, p. 872.

Act 3 of 1895, with the exception of ss. 1, 3, 15, and 16, has in like manner been extended to Coorg, see Gazette of India, 1895, Pt. II, p. 1127.

The Act has been declared in force in the Santhal Parganas by the Santhal Parganas Settlement Regn., 1872 (3 of 1872), s. 3, as amended by the Santhal Parganas Justice and Laws Regn., 1899 (3 of 1899), s. 3, Ben. Code, Vol. I.

<sup>2</sup> For rules and orders under the Act, see notes to the principal Act, Genl. Acts, Vol. I.

(c) deprivation of good-conduct pay ;

(d) removal from any office of distinction or special emolument."

Amendment  
of section 8,  
Act V, 1861,  
respecting  
certificates  
and suspen-  
sion.

3. For the second paragraph of section 8 of the said Act, beginning with the words " Such certificate shall cease to have effect " and ending with the words " officer empowered to receive the same," the following shall be substituted, namely :—

" Such certificate shall cease to have effect whenever the person named in it ceases for any reason to be a police-officer, and, on his ceasing to be such an officer, shall be forthwith surrendered by him to any officer empowered to receive the same.

" A police-officer shall not by reason of being suspended from office cease to be a police-officer. During the term of such suspension the powers, functions and privileges vested in him as a police-officer shall be in abeyance, but he shall continue subject to the same responsibilities, discipline and penalties and to the same authorities, as if he had not been suspended."

Substitution  
of new sec-  
tion for sec-  
tion 15, Act  
V, 1861.

4. For section 15 of the said Act the following shall be substituted, namely :—

Quartering  
of additional  
police in dis-  
turbed or  
dangerous  
districts.

" 15. (1) It shall be lawful for the Local Government, by proclamation to be notified in the official Gazette, and in such other manner as the Local Government shall direct, to declare that any area subject to its authority has been found to be in a disturbed or dangerous state, or that, from the conduct of the inhabitants of such area or of any class or section of them, it is expedient to increase the number of police.

" (2) It shall thereupon be lawful for the Inspector-General of Police, or other officer authorized by the Local Government in this behalf, with the sanction of the Local Government, to employ any police-force in addition to the ordinary fixed complement to be quartered in the area specified in such proclamation as aforesaid.

" (3) Subject to the provisions of sub-section (5) of this section, the cost of such additional police-force shall be borne by the inhabitants of such area described in the proclamation.

" (4) The Magistrate of the district, after such enquiry as he may deem necessary, shall apportion such cost among the inhabitants who are as aforesaid liable to bear the same and who shall not have been exempted under the next succeeding sub-section. Such apportionment shall be made according to the Magistrate's judgment of the respective means within such area of such inhabitants.

“(5) It shall be lawful for the Local Government, by order, to exempt any persons or class or section of such inhabitants from liability to bear any portion of such cost.

“(6) Every proclamation issued under sub-section (1) of this section shall state the period for which it is to remain in force, but it may be withdrawn at any time or continued from time to time for a further period or periods as the Local Government may in each case think fit to direct.

“*Explanation.*—For the purposes of this section, ‘inhabitants’ shall include persons who themselves or by their agents or servants occupy or hold land or other immoveable property within such area, and landlords who themselves or by their agents or servants collect rents direct from raiyats or occupiers in such area, notwithstanding that they do not actually reside therein.”

5. After section 15 of the said Act the following shall be inserted, namely :—

Addition of new sections after section 15, Act V, 1861.

“15A. (1) If, in any area in regard to which any proclamation notified under the last preceding section is in force, death or grievous hurt or loss of, or damage to, property has been caused by or has ensued from the misconduct of the inhabitants of such area or any class or section of them, it shall be lawful for any person, being an inhabitant of such area, who claims to have suffered injury from such misconduct, to make, within one month from the date of the injury or such shorter period as may be prescribed, an application for compensation to the Magistrate of the district or of the sub-division of a district within which such area is situated.

Awarding compensation to sufferers from misconduct of inhabitants or persons interested in land.

“(2) It shall thereupon be lawful for the Magistrate of the district, with the sanction of the Local Government, after such enquiry as he may deem necessary, and whether any additional police-force has or has not been quartered in such area under the last preceding section, to—

- (a) declare the persons to whom injury has been caused by or has ensued from such misconduct ;
- (b) fix the amount of compensation to be paid to such persons and the manner in which it is to be distributed among them ; and
- (c) assess the proportion in which the same shall be paid by the inhabitants of such area other than the applicant who shall not have been exempted from liability to pay under the next succeeding sub-section :

“Provided that the Magistrate shall not make any declaration or assessment under this sub-section unless he is of opinion that such injury as

aforesaid has arisen from a riot or unlawful assembly within such area, and that the person who suffered the injury was himself free from blame in respect of the occurrences which led to such injury.

“(3) It shall be lawful for the Local Government, by order, to exempt any persons or class or section of such inhabitants from liability to pay any portion of such compensation.

“(4) Every declaration or assessment made or order passed by the Magistrate of the district under sub-section (2) shall be subject to revision by the Commissioner of the Division or the Local Government, but save as aforesaid, shall be final.

“(5) No civil suit shall be maintainable in respect of any injury for which compensation has been awarded under this section.

“(6) *Explanation*.—In this section the word ‘inhabitants’ shall have the same meaning as in the last preceding section.”

6. For section 16 of the said Act the following shall be substituted, namely :—

New section substituted for section 16, Act V, 1861.

Recovery of moneys payable under sections 13, 14, 15 and 15A, and disposal of same when recovered.

“16. (1) All moneys payable under sections 13, 14, 15 and 15A shall be recoverable by the Magistrate of the district in the manner provided by sections 386 and 387 of the <sup>1</sup> Code of Criminal Procedure, 1882, for the recovery of fines, or by suit in any competent Court. X of 1882

“(2) All moneys paid or recovered under sections 13, 14 and 15 shall be credited to a fund to be called ‘The General Police Fund,’ and shall be applied to the maintenance of the police-force under such orders as the Local Government shall pass.

“(3) All moneys paid or recovered under section 15A shall be paid by the Magistrate of the district to the persons to whom and in the proportions in which the same are payable under that section.”

Addition to section 26, Act V, 1861.

7. To section 26 of the said Act the following shall be added, namely :—

“(2) The provisions of section 525 of the <sup>1</sup> Code of Criminal Procedure, 1882, shall be applicable to property referred to in this section.” X of 1882

Substitution of new section for section 27, Act V, 1861.

8. For section 27 of the said Act the following shall be substituted, namely :—

Confiscation of property if no claimant appears.

“27. (1) If no person shall within the period allowed claim such property, or the proceeds thereof, if sold, it may, if not already sold under sub-section (2)

<sup>1</sup> See now the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

of the last preceding section, be sold under the orders of the Magistrate of the district.

“(2) The sale-proceeds of property sold under the preceding sub-section and the proceeds of property sold under section 26 to which no claim has been established, shall be at the disposal of Government.”

9. In section 29 of the said Act, after the words “for the period of two months” the following shall be added, namely :—

“or who, being absent on leave, shall fail, without reasonable cause, to report himself for duty on the expiration of such leave.”

10. For section 30 of the said Act the following shall be substituted, namely :—

“30. (1) The District Superintendent or Assistant District Superintendent of Police may, as occasion requires, direct the conduct of all assemblies and processions on the public roads, or in the public streets or thoroughfares, and prescribe the routes by which, and the times at which, such processions may pass.

“(2) He may also, on being satisfied that it is intended by any persons or class of persons to convene or collect an assembly in any such road, street or thoroughfare, or to form a procession which would, in the judgment of the Magistrate of the district or of the sub-division of a district, if uncontrolled, be likely to cause a breach of the peace, require by general or special notice that the persons convening or collecting such assembly or directing or promoting such procession shall apply for a license.

“(3) On such application being made he may issue a license specifying the names of the licensees and defining the conditions on which alone such assembly or such procession is to be permitted to take place and otherwise giving effect to this section : Provided that no fee shall be charged on the application for, or grant of, any such license.

“(4) He may also regulate the extent to which music may be used in the streets on the occasion of festivals and ceremonies.”

11. After section 30 of the said Act the following section shall be inserted, namely :—

“30A. (1) Any Magistrate or District Superintendent of Police or Assistant District Superintendent of Police or Inspector of Police or any police-officer in charge of a station may stop any procession which violates the conditions of a license granted under the last foregoing section, and may order it or any assembly which violates any such conditions as aforesaid to disperse.

Addition to section 29, Act V, 1861, respecting overstay of leave.

Substitution of new section for section 30, Act V, 1861. Regulation of public assemblies and processions, and licensing of the same.

Addition of new section after section 30, Act V, 1861. Powers with regard to assemblies and processions violating conditions of license.

“(2) Any procession or assembly which neglects or refuses to obey any order given under the last preceding sub-section shall be deemed to be an unlawful assembly.”

Amendment  
of sections 32  
and 33, Act  
V, 1861.

12. In section 32 of the said Act, for the word “two,” where it first occurs, the word “three,” and in section 33 of the said Act, for the word “three,” the word “four,” shall be respectively substituted.

Amendment  
of section 34,  
Act V, 1861.

13. In section 34 of the said Act, after the words “or in any” the words “open place or” shall be inserted, and for the expression “residents and passengers” the expression “residents or passengers” shall be substituted.

Substitution  
of new sec-  
tion for sec-  
tions 37, 38,  
39 and 40,  
Act V, 1861.

14. For sections 37, 38, 39 and 40 of the said Act the following section shall be substituted, namely :—

Recovery of  
penalties and  
fines imposed  
by Magis-  
trates.

“37. The provisions of sections 64 to 70, both inclusive, of the <sup>1</sup> Indian Penal Code, and of sections 386 to 389, both inclusive, of the <sup>2</sup> Code of Criminal Procedure, 1882, with respect to fines, shall apply to penalties and fines imposed under this Act on conviction before a Magistrate :

XLV of 1860.  
X of 1882.

Provided that, notwithstanding anything contained in section 65 of the first-mentioned Code, any person sentenced to fine under section 34 of this Act may be imprisoned in default of payment of such fine for any period not exceeding eight days.”

Substitution  
of new sec-  
tion for sec-  
tion 46, Act  
V, 1861.

15. For section 46 of the said Act the following shall be substituted, namely :—

Scope of Act.

“46. (1) This Act shall not by its own operation take effect in any presidency, province or place. But the Governor General in Council, by an order to be published in the Gazette of India, may extend the whole or any part of this Act to any presidency, province or place, and the whole or such portion of this Act as shall be specified in such order shall thereupon take effect in such presidency, province or place.

“(2) When the whole or any part of this Act shall have been so extended, the Local Government may from time to time, by notification in the official Gazette, make rules consistent with this Act—

(a) to regulate the procedure to be followed by Magistrates and Police-officers in the discharge of any duty imposed upon them by or under this Act ;

<sup>1</sup> Genl. Acts, Vol. I.

<sup>2</sup> See now the Code of Criminal Procedure, 1898 (Act 5 of 1898); Genl. Acts, Vol. V.

(b) to prescribe the time, manner and conditions within and under which claims for compensation under section 15A are to be made, the particulars to be stated in such claims, the manner in which the same are to be verified, and the proceedings (including local enquiries if necessary) which are to be taken consequent thereon; and,

(c) generally, for giving effect to the provisions of this Act.

“(3) All rules made under this Act may from time to time be amended, added to or cancelled by the Local Government.”

16. All orders heretofore issued by the Governor General in Council or the Local Government under section 46 of the said Act shall, as far as may be, be deemed to have been issued under the new section substituted for the same by the last foregoing section.

Saving of orders heretofore issued under section 46, Act V, 1861.

# ACT No. X of 1895.<sup>1</sup>

[7th March, 1895.]

An Act to provide for the payment by Railway Companies registered under the <sup>2</sup> Indian Companies Act, 1882, of interest out of capital during construction.

VI of 1882.

WHEREAS it is expedient to provide for the payment by Railway Companies registered under the <sup>2</sup> Indian Companies Act, 1882, of interest out of capital during construction; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Railway Companies Act, 1895.
- (2) It extends to the whole of British India; and
- (3) It shall come into force at once.

Title, extent and commencement.

2. In this Act, unless there is something repugnant in the subject or context,—

Definitions.

(1) “railway” means a railway as defined in section 3, clause (4), of the <sup>3</sup> Indian Railways Act, 1890:

IX of 1890.

(2) “the railway” means the railway in relation to the construction of which interest out of capital is permitted to be paid as hereinafter provided: and

(3) “Railway Company” means a Company registered under the <sup>2</sup> Indian Companies Act, 1882, and formed for the purpose of

VI of 1882.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1895, Pt. V, p. 25, and for Proceedings in Council, see *ibid.*, 1895, Pt. VI, pp. 128, 213 and 217.

The Act has been declared in force in Upper Burma (except the Shan States), by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

<sup>2</sup> Genl. Acts, Vol. III.

<sup>3</sup> *Supra.*



making and working, or making or working, a railway in India, whether alone or in conjunction with other purposes.

Payment of  
interest out  
of capital.

3. A Railway Company may pay interest on its paid-up share capital out of capital, for the period, and subject to the conditions and restrictions in this section mentioned, and may charge the same to capital as part of the cost of construction of the railway :—

- (1) Such interest shall be paid only for such period as shall be determined by the Governor General in Council ; and such period shall in no case extend beyond the close of the half-year next after the half-year during which the railway shall be actually completed and opened for traffic.
- (2) No such payment shall be made unless the same is authorised by the Company's memorandum of association or by a special resolution of the Company.
- (3) No such payment, whether authorised by the Company's memorandum of association or by special resolution as aforesaid, shall be made without the previous sanction of the Governor General in Council.
- (4) The amount so paid out of capital by way of interest, in respect of any period, shall in no case exceed a sum which shall, together with the net earnings of the railway during such period, make up the rate of four per cent. per annum.
- (5) No such payment of interest shall be made until such Railway Company has satisfied the Governor General in Council that two-thirds at least of its share capital, in respect whereof interest is to be so paid, has been actually issued and accepted, and is held by shareholders who, or whose representatives, are legally liable for the same.
- (6) No such interest shall accrue in favour of any shareholder for any time during which any call on any of his shares is in arrear.
- (7) The payment of such interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid.

Provisions of  
section 3 ap-  
plicable to  
additional  
share capital  
for exten-  
sions.

4. A railway in course of construction and intended to be made or worked by a Railway Company in addition to or by way of extension of any railway owned or worked by such Company, shall be deemed to be the railway of such Company for the purposes of this Act, and all the provisions of the last preceding section shall apply to such railway and to the share capital issued for the purpose of its construction.

5. When a Railway Company has power to pay interest under this Act, notice to that effect shall be given in every prospectus, advertisement or other document inviting subscriptions for shares therein, and in every certificate of such shares. Notice in prospectus and other documents.

6. When any interest has been paid by a Railway Company under this Act, the annual or other accounts of such Company shall show the amount on which, and the rate at which, interest has been so paid. Accounts.

7. If by any memorandum of association, articles of association or other document any power of borrowing money is conferred on a Railway Company, or on its Directors, with or without the sanction of any meeting, and if such power of borrowing is limited to an amount bearing any proportion to the capital of such Company, the amount of capital applied or to be applied in payment of interest under this Act shall, for the purpose of ascertaining the extent of such power of borrowing, be deducted from the capital of such Company. Construction of borrowing powers.

### ACT No. XII of 1895.<sup>1</sup>

[21st March, 1895.]

An Act to give power to Companies to make certain alterations in the Instruments under which they are constituted, and to amend the <sup>2</sup>Indian Companies Act, 1882.

VI of 1882.

WHEREAS it is expedient to give to companies power to alter the provisions of the instruments under which they are constituted in certain cases; and whereas it is also expedient to amend section 65 of the <sup>2</sup>Indian Companies Act, 1882; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Companies (Memorandum of Association) Act, 1895; and Short title and commencement.

(2) It shall come into force at once.

VI of 1882.

2. Sections 3 to 10 (both inclusive) shall be read with and taken as part of the Indian Companies Act, 1882. Sections 3 to 10 to be read with Act VI of 1882.

3. In this Act, unless there is something repugnant in the subject or context,— Definitions.

(1) the expression “deed of settlement” includes any contract of copart-

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1895, Pt. V, p. 2; for Report of the Select Committee, see *ibid.*, 1895, Pt. V, p. 55, and for Proceedings in Council, see *ibid.*, 1895, Pt. V, pp. 38, 216, 234 and 263.

The Act has been declared in force in Upper Burma (except the Shan States), by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

<sup>2</sup> Genl. Acts, Vol. III. For extensions of the principal Act, see *ibid.*

nery or other instrument constituting or regulating a company and not being an Act of Parliament, a Royal Charter or Letters Patent ; and

(2) the expression " High Court " means for the Town of Rangoon the <sup>1</sup> Recorder and elsewhere the High Court as defined in the <sup>2</sup> General Clauses Act, 1868.

I of 1868.

Power for company to alter objects or form of constitution subject to confirmation by High Court.

4. Subject to the provisions of this Act, a company registered under the <sup>3</sup> Indian Companies Act, 1882, may, by special resolution, alter the provisions of its memorandum of association or deed of settlement with respect to the object of the company, so far as may be required for any of the purposes hereinafter specified, or alter the form of its constitution by substituting a memorandum and articles of association for a deed of settlement, either with or without any such alteration as aforesaid with respect to the objects of the company ; but in no case shall any such alteration take effect until confirmed on petition by the High Court.

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Particulars as to which Court must be satisfied before confirmation.

5. Before confirming any such alteration the High Court must be satisfied—

- (a) that sufficient notice has been given to every holder of debentures or debenture stock of the company, and every person or class of persons whose interests will, in the opinion of the Court, be affected by the alteration ; and
- (b) that, with respect to every creditor who in the opinion of the Court is entitled to object, and who signifies his objection in manner directed by the Court, either his consent to the alteration has been obtained or his debt or claim has been discharged or has been determined, or has been secured to the satisfaction of the Court :

Provided that the Court may, in the case of any person or class of persons, for special reasons, dispense with the notice required by this section.

Power of Court when confirming to impose terms and make order as to costs.

6. An order confirming any such alteration may be made on such terms and subject to such conditions as to the Court may seem fit, and the Court may make such orders as to costs as it may deem proper.

Discretion conferred on Court.

7. The High Court shall, in exercising its discretion under this Act, have regard to the rights and interests of the members of the company, or of any class of those members, as well as to the rights and interests of the creditors, and may, if it shall think fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purpose of the interests of dissentient members ; and the Court may give such directions and

<sup>1</sup> There is now a Chief Court for the Town of Rangoon, see the Lower Burma Courts Act, 1900 (8 of 1900), Bur. Code.

<sup>2</sup> See now the General Clauses Act, 1897 (10 of 1897), *infra*.

<sup>3</sup> Genl. Acts, Vol. III.

make such orders as it may think expedient for the purpose of facilitating any such arrangement or carrying the same into effect :

Provided always that it shall not be lawful to expend any part of the capital of the company in any such purchase.

8. The High Court may confirm, either wholly or in part, any such alteration as aforesaid with respect to the objects of the company if it appears that the alteration is required in order to enable the company—

Ground on which Court may confirm a proposed alteration.

- (a) to change the place of the registered office of the company from one part of British India to another ; or
- (b) to carry on its business more economically or more efficiently ; or
- (c) to attain its main purpose by new or improved means ; or
- (d) to enlarge or change the local area of its operations ; or
- (e) to carry on some business or businesses which under existing circumstances may conveniently or advantageously be combined with the business of the company ; or
- (f) to restrict or abandon any of the objects specified in the memorandum of association or deed of settlement.

9. (1) Where a company has altered the provisions of its memorandum of association or deed of settlement with respect to the place of its registered office or to the objects of the company, or has altered the form of its constitution by substituting a memorandum and articles of association for a deed of settlement, and such alteration has been confirmed by the Court, a certified copy of the order confirming such alteration, together with a printed copy of the memorandum of association or deed of settlement so altered, or together with a printed copy of the substituted memorandum and articles of association (as the case may be), shall be delivered by the company to the Registrar of Joint Stock Companies within three months from the date of the order, and the Registrar shall register the same, and shall certify under his hand the registration thereof, and his certificate shall be conclusive evidence that all the requisitions of this Act with respect to such alteration and the confirmation thereof have been complied with.

Registration of order together with memorandum as altered or substituted memorandum and articles, and consequence thereof.

(2) When any such alteration as aforesaid involves a transfer of the registered office to a part of British India other than that in which the office is at which the company is registered, a certified copy of the order confirming such change shall be delivered by the company to the Registrar of Joint Stock Companies in each of such parts, and each of such Registrars shall register the same, and shall certify under his hand the registration thereof, and the Registrar for the part from which such office is transferred shall

send to the Registrar for the other part all documents relating to the company registered in his office.

(3) From the date of such registration (but subject to the provisions of this Act) the memorandum or deed of settlement so altered shall be the memorandum of association or deed of settlement of the company, or, as the case may be, such substituted memorandum and articles of association shall apply to the company in the same manner as if the company were a company registered under Part I of the <sup>1</sup>Indian Companies Act, 1882, with such memorandum and articles of association, and the company's deed of settlement shall cease to apply to the company.

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(4) For every registration under this section there shall be payable to the Registrar of Joint Stock Companies a fee of five rupees.

Effect of  
failure to  
register  
within three  
months.

10. No such alteration as aforesaid shall have any operation until registration thereof has been duly effected under the last foregoing section, and, if such registration shall not have been effected within three months next after the date of the order of the Court confirming the alteration, such alteration and order and all proceedings connected therewith shall at the expiration of such period of three months become and be absolutely null and void :

Provided that the Court may, on sufficient cause shewn, revive the order on application made within a further period of one month.

Amendment  
of section 65  
of Act VI of  
1882.

11. In section 65 of the <sup>1</sup>Indian Companies Act, 1882, for the words "in such language or languages" the second time they occur, the words "in the English language" shall be substituted.

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## THE PILGRIM SHIPS ACT, 1895.

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ACT No. XIV OF 1895.<sup>1</sup>

[4th October, 1895.]

## An Act to make better provision for the regulation of Pilgrim Ships.

WHEREAS it is expedient to make better provision for the regulation of pilgrim ships ; It is hereby enacted as follows :—

*Preliminary.*

1. This Act may be called the Pilgrim Ships Act, 1895.

Title.

2. (1) It extends to the whole of British India, and applies—

Extent and application.

- (a) to all subjects of Her Majesty within the dominions of Princes and States in India under the suzerainty of Her Majesty ;
- (b) to all native Indian subjects of Her Majesty without and beyond British India ; and,
- (c) subject to the exceptions mentioned in sub-section (2), to every pilgrim ship as hereinafter defined.

(2) But it does not apply—

- (i) to any ship-of-war, troopship, transport or other ship belonging to the Royal Navy or Royal Indian Marine Service, or
- (ii) to any other ship for the time being in the service of Her Majesty, or
- (iii) to any ship-of-war belonging to any Foreign Prince or State, or
- (iv) to any ship not being a pilgrim ship.

3. This Act shall come into force on such day as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf.<sup>2</sup>

Commencement.

4. On and from that day nothing contained in the <sup>3</sup>Native Passenger Ships Act, 1887, shall apply to any pilgrim ship.

Repeal of Act; X, 1887, so far as regards pilgrim ships.

5. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(1) “pilgrim” means a Muhammadan passenger going to, or returning from, the Hedjaz ; but it does not include a child under one year of age, and

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1895, Pt. V, p. 165 ; for Report of the Select Committee, see *ibid.*, 1895, Pt. V, p. 177 and for Proceedings in Council, see *ibid.*, 1895, Pt. VI, pp. 321, 327, 335 and 349.

<sup>2</sup> Act 14 of 1895 was brought into force on the 6th day of October, 1896, see Genl. Stat. R. and O., Vol. III.

<sup>3</sup> *Supra.*



*(Preliminary. Rules for Voyages of Pilgrim Ships.)*

in the <sup>1</sup> computation of pilgrims for all or any of the purposes of this Act the Governor General in Council may, by notification in the Gazette of India, direct that two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one pilgrim.

*Explanation.*—A Muhammadan passenger who has embarked with the intention of going to the Hedjaz, but is returning without having actually landed there, shall be deemed to be a pilgrim for the purposes of this Act :

(2) "pilgrim ship" means a ship conveying or about to convey pilgrims from or to any port in British India to or from any port in the Red Sea other than Suez :

Provided that no ship carrying passengers other than pilgrims of the lowest class and having on board pilgrims of the lowest class in a less proportion than one pilgrim for every one hundred tons of the gross tonnage of the ship shall be deemed to be a pilgrim ship within the meaning of this Act :

*Explanation.*—A "pilgrim of the lowest class" is a pilgrim for whom no separate accommodation in any cabin, state room or saloon is reserved :

(3) "voyage" means the whole distance between a pilgrim ship's port or place of departure and her final port or place of arrival :

(4) "Chief Customs-officer" means the chief executive officer of sea-customs for any port or place to which this Act applies :

(5) "Magistrate" means a person exercising powers not inferior to those of a Magistrate of the second class : and

(6) "prescribed" means prescribed by rules made by the Governor General in Council under this Act.

6. Every passenger, whether a pilgrim or not, on board a pilgrim ship shall be deemed to be a pilgrim for the purposes of this Act.

*Rules for Voyages of Pilgrim Ships.*

7. (1) No pilgrim ship shall depart or proceed from, or discharge pilgrims at, any port or place within British India other than a port or place <sup>2</sup> appointed in this behalf by the Local Government.

(2) After a pilgrim ship has departed or proceeded on a voyage from a port or place so appointed, no person shall be received on board as a pilgrim except at some other port or place so appointed.

All passengers on pilgrim ships to be deemed pilgrims.

Pilgrim ships to sail only from places appointed by the Government.

<sup>1</sup> For directions as to the computation of pilgrims, see Genl. Stat. R. and O., Vol. III.

<sup>2</sup> For places appointed in—

(1) Bengal, see Ben. Stat. R. and O., Vol. II.

(2) Bombay, see Bom. R. and O., Vol. I.

(3) Madras, see Mad. R. and O., Vol. I.

*(Rules for Voyages of Pilgrim Ships.)*

8. (1) The master, owner or agent of a pilgrim ship so departing or proceeding shall give notice to an officer<sup>1</sup> appointed in this behalf by the Local Government that she is to carry pilgrims, and of her destination, and of the proposed time of sailing.

Notice to be given of time of sailing.

(2) The notice shall be given at the original port of departure if in British India and in other cases at the first port at which she touches in British India, not less than three days, and at all other ports of call not less than twenty-four hours, before that time.

9. After receiving the notice, the officer aforesaid or a person authorized by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores on board.

Power to enter on and inspect pilgrim ship.

10. (1) No pilgrim ship shall commence a voyage from a port or place appointed under this Act, unless the master holds two certificates to the effect mentioned in the two next following sections.

Pilgrim ship not to sail without two certificates.

(2) The officer whose duty it is to grant a port-clearance shall not grant it unless the master holds those certificates.

11. The first of the certificate (hereinafter called "certificate A") shall state that the ship is seaworthy and properly equipped, fitted and ventilated, and the number of pilgrims of each class which she is capable of carrying.

Contents of certificate A.

12. The second of the certificates (hereinafter called "certificate B") shall state—

Contents of certificate B.

(a) the voyage which the ship is to make, and the intermediate ports (if any) at which she is to touch ;

(b) that she has the proper complement of officers and seamen ;

(c) that food, fuel and pure water over and above what is necessary for the crew, and the other things (if any) prescribed for pilgrim ships have been placed on board, of the quality prescribed, properly packed, and sufficient to supply the pilgrims on board during the voyage which she is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed ;

(d) that the master holds certificate A ;

(e) that she is propelled principally by steam ;

(f) that she is of the tonnage and steam-power (if any) prescribed ;

(g) that, if she is to carry more than one hundred pilgrims, she has on

<sup>1</sup> For officer appointed in—

(1) Bengal, *see* Ben. Stat. R. and O., Vol. II ;

(2) Madras, *see* Mad. R. and O., Vol. I (List).

*(Rules for Voyages of Pilgrim Ships)*

board the medical officer, or medical officers, required by section 27 and the prescribed attendants ;

(h) such other particulars (if any) as may be prescribed.

Grant of certificates.

13. The person by whom certificate A and certificate B are to be granted shall be the officer appointed under section 8.

Substitute for certificate A.

14. Where the master of a pilgrim ship produces to that officer either of the following certificates, namely,—

(a) a valid certificate granted by the Board of Trade or by a British Colonial Government, or

(b) a certificate granted under the authority of a British Indian Government on a date not more than one year before the proposed day of sailing and in force and applicable to the voyage on which the ship is to proceed or the service on which she is about to be employed, the officer may, if the particulars required by section 11 are certified thereby, take the certificate as evidence of those particulars, and it shall then be deemed to be a certificate A for the purpose of this Act.

Survey of pilgrim ship.

15. (1) After receiving the notice required by section 8, the officer appointed under that section may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether she is, in their opinion, seaworthy and properly equipped, fitted and ventilated for the conveyance of pilgrims :

Provided that he shall not cause a pilgrim ship holding a certificate mentioned in section 14, clause (a) or clause (b), to be surveyed unless, by reason of her having met with damage or having undergone alterations, or on any other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the conveyance of pilgrims.

(2) If the officer causes a survey to be made of a pilgrim ship holding any such certificate, and the surveyors' report that she is seaworthy and properly equipped, fitted and ventilated for the conveyance of pilgrims, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted or ventilated for such traffic, the expense of the survey shall be paid by the Local Government.

Discretion as to grant of certificate.

16. (1) The officer authorized to grant a certificate under this Act in respect of a pilgrim ship shall not grant it unless he is satisfied that she has on board no cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the pilgrims embarked.

*(Rules for Voyages of Pilgrim Ships.)*

(2) But save as aforesaid, and subject to the provisions of sub-section (3), it shall be in the discretion of the officer to grant or withhold a certificate under this Act.

(3) In the exercise of that discretion such officer shall be subject to the control of the Local Government and of any intermediate authority which that Government may<sup>1</sup> appoint in this behalf.

17. The master or owner of every pilgrim ship shall post up in a conspicuous part of her, so as to be visible to persons on board, a copy of each of the certificates granted under this Act in respect thereof, and shall keep those copies so posted up throughout the voyage.

Copy of certificates to be exhibited.

18. If an officer appointed in this behalf by the Local Government is satisfied that a pilgrim has brought on board a pilgrim ship for his own use food of the prescribed quality and in the prescribed quantity, the requirements of this Act respecting the supply of food for pilgrims shall not apply so far as regards the supply of food for that pilgrim.

Supply by pilgrims of their own food.

19. (1) The Governor General in Council may by<sup>2</sup> order prescribe the number of superficial and cubic feet of space (not being less than the space for the time being required for passengers under any Act for the regulation of passenger ships) to be available in the between-decks for pilgrims of each class respectively on board pilgrim ships.

Space to be provided for pilgrims.

(2) Every pilgrim ship shall have reserved for the use of the pilgrims on board gratuitously by day and by night so much of the upper-deck as is not required for the airing space of the crew or for permanent structures :

Provided that the upper-deck space available for pilgrims shall in no case be less than six superficial feet for each pilgrim of the age of twelve years or upwards on board.

(3) Subject as aforesaid and to any rules which may be made under this Act, such space may be allotted among the different classes of pilgrims in such proportion as may be thought fit :

Provided that no less space shall be allotted to any one class than will provide six superficial feet of space available for each pilgrim of the age of twelve years or upwards of that class on board.

20. The baggage of all pilgrims shall be disposed of on board in such manner as may be prescribed.

Disposal of pilgrims' baggage.

21. There shall be a regularly appointed hospital on board every pilgrim

Hospital as commodatic

<sup>1</sup> As to intermediate authority appointed in—

(1) Bombay, see Bom. Govt. Gazette, 1897, Pt. I, p. 1628.

(2) Madras, see Mad. R. and O., Vol. I.

<sup>2</sup> For order under s. 19, see Genl. Stat. R. and O., Vol. III.

*(Rules for Voyages of Pilgrim Ships.)*

ship offering such conditions of security, health and space and capable of accommodating such number, not exceeding five per cent., of the pilgrims embarked, as may be prescribed.

Statement  
concerning  
pilgrims to  
be delivered  
before ship  
departs.

22. The master of every pilgrim ship departing or proceeding from any port or place in British India shall sign a statement in duplicate in the prescribed form specifying the total number and the number of each sex of all the pilgrims embarked and the number of the crew, and such other particulars as may be prescribed, and shall deliver both copies to the officer appointed under section 8, who shall thereupon, after having first satisfied himself that the entries are correct, countersign and return to the master one of the copies.

Deaths on  
voyage.

23. The master of every pilgrim ship shall note in writing on the copy of the statement returned to him under the last foregoing section, and on any additional statement to be made under the next following section, the date and supposed cause of death of any pilgrim who may die on the voyage, and shall, when the pilgrim ship arrives at her port or place of destination or at any port or place at which it may be intended to land pilgrims, and, before any pilgrims disembark, produce the statement, with any additions thereto made, to a person lawfully exercising consular authority on behalf of Her Majesty at the port or place or to the Chief Customs-officer thereat or the officer (if any) appointed there under section 8.

Pilgrim ship  
taking addi-  
tional pil-  
grims at in-  
termedita-  
place.

24. (1) In either of the following cases, namely,—

- (a) if after a pilgrim ship has departed or proceeded on her voyage any additional pilgrims are taken on board at a port or place within British India appointed under this Act for the embarkation of pilgrims, or
- (b) if a pilgrim ship upon her voyage touches or arrives at any such port or place, having previously received on board additional pilgrims at any place beyond British India,

the master shall obtain a fresh certificate to the effect of certificate B from the officer appointed at that port or place under section 8, and shall furnish an additional statement in duplicate in the prescribed form respecting such additional pilgrims.

(2) All the foregoing provisions of this Act with respect to certificate B and the statement concerning pilgrims to be signed and delivered by the masters of pilgrim ships shall be applicable to any certificate granted or statement furnished under this section.

Statement  
concerning  
pilgrims to

25. The master of every pilgrim ship arriving at any port or place in British India at which it may be intended to discharge pilgrims shall, before-

*(Rules for Voyages of Pilgrim Ships.)*

any pilgrims disembark, deliver a statement signed by him, specifying the total number and the number of each sex of all the pilgrims on board and the number of the crew, and such other particulars as may be prescribed, to the officer appointed thereat under section 8.

26. Every pilgrim ship shall be propelled principally by steam, and shall be of the tonnage and steam-power (if any) prescribed.

27. Every pilgrim ship carrying more than one hundred pilgrims shall have on board a medical officer licensed as prescribed and, if the number carried exceed one thousand, a second medical officer similarly licensed, and also in all cases such attendants as may be prescribed.

28. The medical officer or officers of every pilgrim ship shall keep such diaries and shall submit such reports or other returns as may be prescribed.

29. Every pilgrim ship proceeding from any port in British India other than Aden to any port in the Red Sea shall touch at Aden, and shall not leave that port without having obtained from the proper authority a certificate stating whether any case of cholera has or has not occurred on board since the ship left the port of last departure.

30. The authority at Aden empowered to grant the certificate required under section 29 may refuse to permit the ship to leave that port if the provisions of this Act or any rule thereunder are not complied with on board such ship.

31. In the case of every pilgrim ship proceeding from any port in British India to any port in the Red Sea, the officer whose duty it is to grant a port-clearance shall not grant the clearance unless or until the master, owner or agent and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond, for the sum of five thousand rupees, conditioned—

(a) that the ship (if the voyage do not commence at Aden) shall touch at Aden on the outward voyage and there obtain the certificate required by section 29, and

(b) that the master and medical officer or officers (if any) shall comply with the provisions of this Act and the rules thereunder.

32. (1) No pilgrim shall be received on board any pilgrim ship at any port or place in British India unless and until he has been<sup>1</sup> medically inspected

be delivered before pilgrims disembark in British India.

Pilgrim ships to be propelled principally by steam and to be of certain tonnage and steam-power.

Certain pilgrim ships to carry medical officers and attendants. Medical officers' diaries and reports.

Pilgrim ships to touch at Aden on the outward voyage.

When authority at Aden may refuse to let ship leave.

Bond where pilgrim ship proceeds on outward voyage.

Medical inspection and permission

<sup>1</sup> For rules regarding the medical inspection of pilgrims in Bombay, see Bom. R. and O., Vol. I (List).

*(Rules for Voyages of Pilgrim Ships.)*

required be-  
fore embark-  
ation of  
pilgrims.

at such time and place, and in such manner, as the Local Government may fix in this behalf, nor until the officer to whom notice has been given under section 8 has given permission for the embarkation of pilgrims to commence.

(2) If in the opinion of the officer making an inspection under this section, any pilgrim is suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, such pilgrim shall not be permitted to embark.

(3) All articles which have been contaminated by persons suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or are suspected of having been so contaminated, shall, before being taken on board a pilgrim ship, be disinfected, under the supervision of a medical officer appointed by the Local Government for the purpose, in such manner as may be prescribed.

Medical in-  
spection  
after em-  
barkation in  
certain cases.

33. (1) If in any case a pilgrim ship does not proceed on her voyage within forty-eight hours after all the pilgrims have been received on board, and there is reason to suspect that any person on board is suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, a medical inspection of all persons on board may be held in such manner as the Local Government may direct.

(2) If on such inspection any person is found to be suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, he shall, together with all articles belonging to him, be at once removed from the ship.

Medical in-  
spection of  
women.

34. So far as may be practicable, and subject to any rules which may be made under this Act, the medical inspection of female pilgrims shall be carried out by women.

Issue and  
production of  
tickets and  
refund of  
passage-  
money.

35. (1) Every pilgrim shall be entitled on payment of his passage-money and fulfilment of the other prescribed conditions (if any) to receive a ticket in the prescribed form, and shall be bound to produce the same to such officers and on such occasions as may be prescribed, and otherwise to deal with the same in the prescribed manner.

(2) Every pilgrim prevented from embarking under section 32 or removed from the ship under section 33 or otherwise prevented from proceeding shall be entitled to the refund of any passage-money he may have paid, subject to any conditions or deductions which may be prescribed.

Sanitary taxes  
payable by

36. The master of every pilgrim ship shall be bound to pay the whole amount of the sanitary taxes imposed by lawful authority at the ports visited

*(Penalties.)*

if and so far as such taxes are included in the cost of the tickets issued to the pilgrims. master of pilgrim ship.

*Penalties.*

37. (1) If a pilgrim ship departs or proceeds on a voyage from, or discharges passengers at, any port or place within British India in contravention of the provisions of section 7, sub-section (1), or section 10, the master or owner shall for every passenger carried in the ship, or so discharged (as the case may be), be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to one month, or with both. Penalty on master or owner for pilgrim ship unlawfully departing or receiving pilgrims on board.

(2) If any person is received as a pilgrim on board a pilgrim ship in contravention of the provisions of section 7, sub-section (2), the master or owner shall for every such pilgrim be liable to such punishment as is specified in sub-section (1).

(3) In either of the said cases the ship, if found within two years in any port or place within British India, may be seized and detained by a Chief Customs-officer until the penalties incurred under this Act by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Act, with all costs, has been enforced, under the provisions of this Act :

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

38. If any one impedes or refuses to allow any entry or inspection authorized by or under this Act, he shall be punished with fine which may extend to five hundred rupees for each offence, or with imprisonment for a term which may extend to three months, or with both. Penalty for opposing entry on or inspection of pilgrim ship.

39. If the master or owner of a pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of section 17 with respect to the posting of copies of certificates, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both. Penalty on master or owner for not exhibiting copy of certificates.

40. If the master of a pilgrim ship fails to comply with any of the requirements of section 22, section 23 or section 25 as to the statements concerning pilgrims, or wilfully makes any false entry or note in or on any such statement, or fails to obtain any such fresh certificate or to make any such statement of the number of additional pilgrims as is mentioned in section 24, Penalty on master for not complying with requirement as to statements concerning pil-



*(Penalties.)*

grims and certain other matters.

he shall be punished with fine which may extend to five hundred rupees for every such offence, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master for fraudulent alteration in pilgrim ship after certificate obtained.

41. If the master of a pilgrim ship, after having obtained any of the certificates mentioned in section 10 or section 24, fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, the pilgrims on board or other matters to which the certificate relates, he shall be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty on master for failing to supply pilgrims with prescribed provisions.

42. If the master of a pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any pilgrim the prescribed allowance of food, fuel and water, he shall be punished with fine which may extend to twenty rupees for every pilgrim who has sustained detriment by the omission.

Penalty on master and owner for carrying pilgrims in excess of authorized number.

43. (1) If a pilgrim ship has on board a number of pilgrims greater either than the number allowed under this Act or than the number allowed by the license or certificate (if any) granted at her port or place of departure, whichever shall be the smaller, the master and owner shall, for every pilgrim in excess of that number, be each punished with fine which may extend to twenty rupees, and the master shall further be liable to imprisonment for a term which may extend to one week in respect of each such pilgrim: Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

(2) Any officer authorized in this behalf by the Local Government may cause all pilgrims over and above the number allowed under this Act or by such license or certificate as aforesaid to disembark, and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Act, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

Penalty on master for landing pilgrim at a place other than that at which he has contracted to land.

44. If the master of a pilgrim ship lands any pilgrim at any port or place other than the port or place at which such pilgrim may have contracted to land unless with his previous consent or unless the landing is made necessary by perils of the sea or other unavoidable accident, he shall for every such offence be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

Penalty on master and

45. If a pilgrim ship, otherwise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any

*(Penalties.)*

express or implied contract or engagement with the pilgrims with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

owner for making voyage in contravention of contract with pilgrims.

46. If a pilgrim ship is not propelled principally by steam or is not of the prescribed tonnage or steam-power as required by section 26, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.

Penalty on master and owner of pilgrim ship not propelled principally by steam or of prescribed tonnage or steam-power.

47. If a pilgrim ship carrying more than one hundred pilgrims has not on board a medical officer, or two medical officers if the number of pilgrims carried exceed one thousand, and also the prescribed attendants as required by section 27, the master shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master of pilgrim ship sailing without medical officer or attendants in contravention of section 27.

48. If the master of a pilgrim ship proceeding from any port in British India other than Aden to any port in the Red Sea, without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden, or leaves that port without having obtained the certificate required by section 29, he shall for every such offence be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty on master for not obtaining certificate at Aden on outward voyage.

49. If the master of a pilgrim ship knowingly receives on board any pilgrim or any contaminated article in contravention of the provisions of section 32, or keeps on board any pilgrim or article ordered to be removed under section 33, he shall be punished with fine which may extend to five hundred rupees for each pilgrim or fifty rupees for each article so received or kept on board, or with imprisonment which may extend to three months, or with both.

Penalty on master receiving or keeping on board pilgrim or article in contravention of section 32 or 33.

50. If the master or the medical officer (if any) of a pilgrim ship, without reasonable excuse, the burden of proving which shall lie upon him, breaks, or omits or neglects to obey, any rule under this Act, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master or medical officer of pilgrim ship disobeying rules under this Act.

*(Procedure.)**Procedure.*

Adjudication  
of offences  
and levy of  
fine by dis-  
tress of pil-  
grim ship.

51. (1) Offences against this Act shall be punishable by a Magistrate.

(2) If the person on whom a fine is imposed under this Act is the master or owner of a pilgrim ship, and the fine is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the ordinary means prescribed by law for enforcing payment by warrant, direct the amount remaining unpaid to be levied by distress and sale of such pilgrim ship, her tackle, furniture and apparel.

Jurisdiction.

52. For the purpose of the adjudication of penalties under this Act, every offence against its provisions shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

Authority to  
institute pro-  
ceedings for  
penalties.

53. The penalties to which masters and owners of pilgrim ships are made liable by this Act shall be enforced only on information laid at the instance of officers appointed to grant certificates under this Act, or, at any port or place where there is no such officer, at the instance of the Chief Customs-officer.

Application  
of fines.

54. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in or towards compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed, or in or towards payment of the expenses of the prosecution, or in rewarding any person upon whose information the conviction took place or who has been otherwise instrumental in the detection or prosecution of the offender.

Depositions  
of absent  
witnesses.

55. (1) Whenever in the course of any legal proceeding under this Act, the testimony of a witness is required in relation to the subject-matter of the proceeding, any deposition which he may have previously made in relation to the same subject-matter before any Justice or Magistrate in Her Majesty's dominions (including all parts of India other than those subject to the same Local Government as the port or place where the proceeding is instituted), or before any British consular officer elsewhere, shall be admissible in evidence on proof that the witness cannot be found within the jurisdiction of the Court in which the proceeding is instituted :

Provided that the deposition shall not be admissible unless—

- (a) it is authenticated by the signature of the Justice, Magistrate or consular officer ;
- (b) it was made in the presence of the person accused ; and
- (c) the fact that it was so made is certified by the Justice, Magistrate or consular officer.

*(Supplemental.)*

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition ; and in any criminal proceeding such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

*Supplemental.*

56. (1) The Chief Customs-officer or other officer (if any) appointed by the Local Government in this behalf at any port or place within British India at which a pilgrim ship touches or arrives shall, with advertence to the provisions of this Act, send any particulars which he may deem important respecting such pilgrim ship and the pilgrims carried therein to the officer at the port or place from which she commenced her voyage, and to the officer at any other port or place within British India where the pilgrims or any of them embarked or are to be discharged.

Information to be sent to ports of embarkation and discharge

(2) The Chief Customs-officer or other officer (if any) appointed by the Local Government in this behalf at any port or place in British India at which a pilgrim ship touches or arrives may enter on the ship and inspect her in order to ascertain whether the provisions of this Act as to the number of pilgrims and other matters have been complied with.

57. In any proceeding for the adjudication of any penalty incurred under this Act any document purporting to be a report of such particulars as are referred to in sub-section (1) of the last foregoing section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising consular authority on behalf of Her Majesty in any foreign port, shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Act is had.

Report of Consul.

58. (1) The Governor General in Council may make rules<sup>1</sup> consistent with this Act to regulate all or any of the following matters :—

- (a) the boats, anchors and cables to be provided on board pilgrim ships ;
- (b) the instruments for purposes of navigation to be supplied ;
- (c) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent and deal with such fires ;
- (d) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys ;

Power for Governor General in Council and Local Government to make rules.

<sup>1</sup> For rules made under the powers conferred by this section, see Genl. Stat. R. & O., Vol. III.

*(Supplemental.)*

- (e) the fittings and other appliances to be provided in the upper and between-decks for the comfort and convenience of pilgrims ;
- (f) the scale on which and manner in which food, fuel and water are to be supplied to pilgrims, and the quality of such food, fuel and water ;
- (g) the quality, quantity, and storage of the cargo to be carried ;
- (h) the allotment of the upper-deck space between the various classes of pilgrims ;
- (i) the amount and distribution of the baggage of pilgrims ;
- (j) the nature and the extent of the hospital accommodation and the medical stores, disinfectants, and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency ;
- (k) the form of the statements to be furnished by the master under sections 22 and 25 and the particulars to be entered therein ;
- (l) the tonnage and steam-power to be required in the case of pilgrim ships, and the voyages to which and seasons at which such rules shall respectively apply ;
- (m) the licensing and appointment of medical officers and other attendants in cases where they are required by this Act to be carried, and the diaries, reports and other returns to be kept or submitted by such medical officers ;
- (n) the manner in which contaminated articles shall be disinfected before being taken on board a pilgrim ship ;
- (o) the manner in which and the persons by whom the medical inspection of women shall be carried out ;
- (p) the supply of tickets to intending pilgrims, the form of such tickets and the conditions and other matters to be specified thereon, and the amount of the sanitary taxes to be included in the cost thereof ;
- (q) the refund of passage-money to intending pilgrims, who may not be permitted to embark or who having embarked may be removed from the ship under the powers conferred by sections 32 and 33 or who may otherwise for any unavoidable cause be prevented from proceeding in any pilgrim ship ;
- (r) the functions of the master, medical officer or officers (if any) and other officers during the voyage ; and,
- (s) generally, to carry out the purposes of this Act.

*(Supplemental.)*

(2) The Local Government may, with the previous sanction of the Governor General in Council, make rules <sup>1</sup> consistent with this Act to regulate—

- (a) the local limits within which, and the time and mode at and in which pilgrims shall be embarked or discharged at any port or place appointed under this Act in that behalf; and
- (b) the time within which a pilgrim ship shall depart or proceed on her voyage after commencing to take pilgrims on board.

(3) In making a rule under this section the authority making it may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and when the breach is a continuing breach with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

of 1887.

59. All rules heretofore made under the <sup>2</sup>Native Passenger Ships Act, 1887, shall, so far as consistent with this Act, continue to be applicable to pilgrim ships unless and until they shall be superseded or altered by rules under this Act.

Temporary  
continuance  
of existing  
rules.

60. The Local Government shall <sup>3</sup>appoint such persons as it may think fit to exercise and perform the powers and duties which are conferred and imposed by this Act or may be conferred and imposed thereunder.

Appointment  
of officers.

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<sup>1</sup> For rules made by the Government of Bombay, *see* Bom. Govt. Gazette, 1896, Pt. I p. 1108.

<sup>2</sup> *Supra*.

<sup>3</sup> For notification appointing the Superintendent, Preventive Service, Bombay, to exercise and perform the powers and duties conferred and imposed by sections 8, 9 and 13 of the Act at the port of Bombay, *see* Bom. R. and O., Vol. I (List).

ACT No. XV of 1895.<sup>1</sup>

[10th October, 1895.]

An Act to explain the <sup>2</sup> Transfer of Property Act, 1882, so far as relates to grants from the Crown, and to remove certain doubts as to the powers of the Crown in relation to such grants.

WHEREAS doubts have arisen as to the extent and operation of the <sup>2</sup> Transfer of Property Act, 1882, and as to the power of the Crown to impose IV of 1882 limitations and restrictions upon grants and other transfers of land made by it or under its authority, and it is expedient to remove such doubts ; It is hereby enacted as follows :—

Title, extent  
and com-  
mencement.

1. (1) This Act may be called the Crown Grants Act, 1895.

(2) It extends to the whole of British India ; and

(3) It shall come into force at once.

Transfer of  
Property  
Act, 1882,  
not to apply  
to Crown  
grants.

2. Nothing in the <sup>2</sup>Transfer of Property Act, 1882, contained shall apply IV of 1882 or be deemed ever to have applied to any grant or other transfer of land or of any interest therein heretofore made or hereafter to be made by or on behalf of Her Majesty the Queen Empress, her heirs or successors, or by or on behalf of the Secretary of State for India in Council to, or in favour of, any person whomsoever ; but every such grant and transfer shall be construed and take effect as if the said Act had not been passed.

Crown grants  
to take effect  
according to  
their tenor.

3. All provisions, restrictions, conditions and limitations over contained in any such grant or transfer as aforesaid shall be valid and take effect according to their tenor any rule of law, statute or enactment of the Legislature to the contrary notwithstanding. \*

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1895, Pt. V, p. 169, and for Proceedings in Council, *see* *ibid.*, Pt. VI, pp. 339 and 355.

<sup>2</sup> This Act was declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (18 of 1898), Bur. Code.

<sup>3</sup> Genl. Acts, Vol. III.

## THE COTTON DUTIES ACT, 1896.

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 ACT No. II OF 1896.<sup>1</sup>

[3rd February, 1896.]

An Act to provide for the Imposition and Levy of certain Duties  
on Cotton Goods.

XVII of 1894. WHEREAS it is expedient to repeal the Cotton Duties Act, 1894, and to impose certain duties on cotton goods ; It is hereby enacted as follows :—

## PRELIMINARY.

- |               |   |                                 |
|---------------|---|---------------------------------|
|               | 1. (1) This Act may be called the Cotton Duties Act, 1896.  | Title, extent and commencement. |
|               | (2) It extends to the whole of British India ; and  |                                 |
|               | (3) It shall come into force at once.   |                                 |
| XVII of 1894. | 2. (1) The Cotton Duties Act, 1894, is hereby repealed.   | Repeal.                         |
|               | (2) But all the provisions in respect of drawback contained in sections 17 to 24 of that Act shall be deemed to be in force in respect of all duty paid thereunder, and all sums recoverable, liabilities incurred, officers appointed or authorised, warehouses licensed and rules and directions made under that Act shall, so far as may be, be deemed respectively to be recoverable, and to have been incurred, appointed or authorised, licensed and made under this Act. |                                 |
|               | 3. In this Act, unless there be something repugnant in the subject or context,—   | Definitions.                    |
| VIII of 1878. | (1) “the Principal Act” means the <sup>2</sup> Sea Customs Act, 1878 :  |                                 |
|               | (2) “Chief Customs Authority” means, in the Presidency of Fort St. George and the territories respectively under the administration of the Lieut-   |                                 |

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1896, Pt. V, p. 18 ; for Report of the Select Committee, *see ibid.*, Pt. IV, p. 11 and for Proceedings in Council, *see ibid.*, Pt. VI, pp. 20 and 36.

<sup>2</sup> Genl. Acts, Vol. II.

## (Preliminary.)

enant-Governors of Bengal and the <sup>1</sup> North-Western Provinces and the Chief Commissioner of Oudh, the Board of Revenue; in the Presidency of Bombay outside Sind, the Commissioner of Customs; in Sind, the Commissioner; in the Punjab and Burma, the Financial Commissioner; and elsewhere the Local Government or such officer as the Local Government may, by notification in the official Gazette <sup>2</sup> appoint in this behalf by name or in virtue of his office :

(3) "Collector" means—

(a) at Calcutta, Bombay, Madras, Rangoon and Karachi, the Collector of Customs, and

(b) in any other place, the Collector or Deputy Commissioner of the District or such other officer as the Local Government may appoint in this behalf, and includes

(c) every <sup>3</sup>officer for the time being duly authorised by the Local Government to perform all or any of the duties of a Collector under this Act :

(4) "cotton yarn" or "yarn" means yarn wholly or partly composed of cotton fibres :

(5) "cotton goods" or "goods" includes all tissues and other articles (except yarn and thread), woven, knitted or otherwise manufactured wholly or partly from cotton yarn :

(6) "mill" means any building or place where cotton goods are woven, knitted or otherwise manufactured by machinery moved otherwise than by manual labour, and includes every part of such building or place :

(7) "warehouse" means a place licensed for the storage of goods under this Act, and includes every public or private warehouse duly appointed or licensed under section 15 or 16 of the <sup>4</sup> Principal Act, or under section 2 of the <sup>4</sup> Inland Bonded Warehouses Act, 1887 :

XI of 1887.

(8) "customs-port," "foreign port," "vessel" and "master" have respectively the meanings defined for them in the Principal Act. <sup>4</sup>

4. The officers subordinate to a Collector shall, unless the Local Government shall otherwise so direct, for the purposes of this Act, perform the duties

Performance  
of duties of  
Customs-

<sup>1</sup> Read now United Provinces of Agra and Oudh. There is now no Chief Commr. of Oudh, but a Lieutenant-Governor for the United Provinces of Agra and Oudh. See proclamation No. 996-P, dated the 22nd March, 1902, Pt. I, pp. 228 and the United Provinces (Designation) Act, 1902 (7 of 1902), Genl. Acts, Vol. V.

<sup>2</sup> For appointment in virtue of the powers conferred by this section in (1) Ajmer-Merwara, see Ajmer-Merwara R. and O., Vol. I.; (2) Bombay, see the Bom. R. and O., Vol. I.; (3) Central Provinces, see Cen. Provs. R. and O.

<sup>3</sup> For officers appointed under ss. 8, 15 and 30, to perform the duties of a Collector in (1) Ajmer-Merwara, see Ajmer-Merwara R. and O., Vol. I.; (2) Bombay, see Bom. R. and O., Vol. I.

<sup>4</sup> The Sea Customs Act, 1878 (8 of 1878), see s. 3 (1), Genl. Acts, Vol. II.

<sup>5</sup> See now the Inland Bonded Warehouses Act, 1896 (8 of 1896), s. 3 (2) of which directs that this reference shall be read as if it were made to that Act, see *infra*.

imposed and exercise the powers conferred upon officers of Customs under the  
<sup>1</sup> Principal Act.

officers by  
 subordinate  
 officers.

## PART I.

### EXCISE.

#### *Application of Principal Act.*<sup>1</sup>

5. In the application of the Principal Act,<sup>1</sup> or any particular section or sections thereof to this Part the following modifications shall be made therein, namely :—

Modifications  
 to be made in  
 Principal Act  
 as applied to  
 this Part.

- (a) “ the owner of the goods ” shall include the managing agent or other principal officer of a mill ;
- (b) “ for the bill-of-entry ” or “ shipping-bill ” shall be substituted “ the return required by this Act ”;
- (c) every reference to a warehouse, or warehousing, shall be construed as referring to a “ warehouse ” as hereinbefore defined.

#### *Duty.*

6. There shall be levied and collected at every mill in British India, upon all cotton goods produced in such mill, a duty at the rate of 3½ per centum on the value of such goods.

Imposition  
 of duty on  
 cotton goods  
 produced in  
 British  
 Indian mills.

*Explanation.*—Goods are said to be produced within the meaning of this section when they are issued out of the premises of the mill. But, in the case of any mill in which the goods are chiefly or largely made up and sold otherwise than as piece-goods, the Governor General in Council may direct that goods shall be reckoned as produced when they are issued out of the weaving section or sections of the mill.

7. (1) The Governor General in Council may, from time to time, by notification in the Gazette of India, <sup>2</sup> fix, for the purpose of levying the said duties, tariff values of all such goods as aforesaid or of any particular description or descriptions thereof, and alter any tariff values for the time being in force.

Power to  
 Governor  
 General in  
 Council to  
 fix tariff  
 values of  
 such goods.

(2) Such tariff value shall, for the purposes of this Act, be deemed to be the “ real value ” of the goods to which it applies, but save as aforesaid all goods shall be assessed under this Act at their real value.

(3) For the purposes of this Act the real value shall be deemed to be—

- (a) the wholesale cash price, less trade discount for which goods of the

<sup>1</sup> The Sea Customs Act, 1878 (8 of 1878), see s. 3 (1), Genl. Acts, Vol. II.

<sup>2</sup> For notification issued under this section see Genl. Stat. R. and O., Vol. III.

## (Part I.—Excise.)

like kind and quality are sold or are capable of being sold at the time and place of production, without any abatement or deduction whatever, except of the amount of the duties payable on the production thereof ;

- (b) where such price is not ascertainable, the cost at which goods of the like kind and quality could be delivered at such place, without any abatement or deduction, except as aforesaid.

Delivery of  
monthly  
returns of  
goods pro-  
duced by  
mill-owners.

8. (1) The owner of every mill shall prepare and deliver, or cause to be prepared and delivered, to the Collector each month a return of all the cotton goods produced at his mill during the preceding month ; and shall subscribe a declaration of the truth of such return at the foot thereof.

(2) Unless otherwise prescribed by any rules under this Act, every such return shall state for each description of goods the quantity produced during the period to which the return relates, and the real value of such goods.

(3) Every such return shall also contain such further information and be in such form and be subject to such conditions as to verification and otherwise as may be prescribed by any rules under this Act.

(4) Each return shall be delivered to the Collector or posted to his address within three working days, and at most within seven days, of the period to which it relates, and the first of such returns shall be made for the month of February, 1896, and shall include all goods produced since the commencement of this Act.

*Explanation.*—" Working day " in this sub-section means every day except a public holiday as defined in section 25 of the <sup>1</sup>Negotiable Instruments Act, 1881.

XXVI of 1881

Assessment  
of duty and  
notice  
requiring  
payment.

9. (1) The Collector shall assess the duties payable in respect of the period to which the return relates, and unless the amount thereof is immediately tendered shall cause a notice, in such form as may be prescribed by any rules under this Act, to be served on the owner requiring him to make payment of the amount assessed within ten days of the date of service of the said notice.

(2) A notice under sub-section (1) may be served on the owner of a mill by delivering or tendering to him or his agent at his ordinary place of business a copy of the notice, or, if this cannot be conveniently done, by fixing a copy of the notice on one of the outer doors of the mill.

Application  
of certain

10. Sections 31 to 34, 37, and 39 to 41, all inclusive, of the Principal

<sup>1</sup> Genl. Acts, Vol. III.

## (Part I.—Excise.)

Act,<sup>1</sup> shall apply to the assessment and recovery of the duties imposed by this Act. sections of Principal Act to assessment and recovery of duty under this Act.

Provided that the rate of duty and the tariff valuation applicable to any goods which have not been warehoused as hereinafter provided shall be those in force at the time when the goods were produced, and not when the return was delivered as provided by the said section 37.

11. (1) If any duty payable under this Act is not paid within the time fixed by any such notice as aforesaid for the payment thereof, the Collector may, in lieu thereof, recover any sum not exceeding double the amount of duty so unpaid, which he shall, in his discretion, think it reasonable to require. Recovery of unpaid duty.

(2) All sums recoverable under sub-section (1) shall be recovered in the manner provided in<sup>2</sup> Act II of 1886, section 30, sub-sections (1), (2) and (3), with respect to the sums therein referred to.

*Warehousing.*

12. (1) The Chief Customs Authority may from time to time license any room or place as a warehouse for the storage of cotton goods, and for the purposes of this Act every such room or place shall be deemed to be a warehouse and to have been duly licensed under the<sup>1</sup> Principal Act. Licensing of warehouses for storage of goods and fees for same.

(2) There shall be payable in respect of every such warehouse such and the like licensing fees and other payments as may for the time being be payable in respect of a private warehouse licensed under the<sup>1</sup> Principal Act.

Provided that the Chief Customs Authority may remit the whole or any part of such fees or other payments in respect of any particular warehouse.

13. (1) The owner of any mill may apply for leave to deposit in a warehouse any goods in respect of which duty has become leviable under section 6 but has not yet been assessed under section 9. Permission to deposit goods in warehouses.

(2) Such application shall be in writing signed by the applicant, and shall be in such form as may be prescribed by the Chief Customs Authority.

14. All the provisions of Chapter XI of the<sup>1</sup> Principal Act, so far as the same are applicable to imported goods of a similar description, shall apply to all goods in respect of which an application has been made under section 13. Application to goods so deposited of provisions of Chapter XI of Principal Act.

15. When any goods have been deposited in a warehouse, the quantity and particulars thereof shall be specified as so deposited in the return made under section 8 for the period in which the goods were produced, or in a Exemption from assessment of goods so deposited.

<sup>1</sup> The Sea Customs Act, 1878 (8 of 1878), *see s. 3 (1)*, Genl. Acts, Vol. II.

<sup>2</sup> The Indian Income-tax Act, 1886, Genl. Acts, Vol. III.

## (Part I.—Excise.)

separate return for that same period, and the said goods shall be deducted in the assessment and collection of duty.

*Inspection.*

Power to  
Collector to  
inspect mills  
and take  
copies of  
records and  
accounts.

16. (1) The Collector, or any officer duly appointed by the Local Government in that behalf, shall have free access at all reasonable times during working hours to any mill and, subject to any order of the Local Government in this behalf, to any part of any mill.

(2) Any such officer may at any time, with or without notice to the owner, examine the working records, sale records, and accounts of any mill, and take copies of, or extracts from, all or any of the said records or accounts, for the purpose of testing the accuracy of any return, or of informing himself as to any particulars regarding which information is required for the purposes of this Act or any rules thereunder.

(3) Any mill-owner may object to submitting to any officer under the rank of a Collector any record or account containing the description or formulæ of any trade process :

but, if he objects to the inspection of any record or account by such an officer on the ground of its containing such description or formulæ, he must submit his objection in writing to the officer for transmission to the Collector, and the officer may then and there seal up the record or account pending the orders of the Collector.

Information  
acquired to  
be deemed  
official secrets  
within mean-  
ing of Act  
XV, 1889.

17. (1) All such copies and extracts, and all other information acquired by any such officer on the inspection of any mill or warehouse, shall be regarded as strictly confidential, and shall be deemed to be official secrets.

(2) If any such officer shall disclose to any person other than a superior officer any such official secret as aforesaid without the previous consent in writing of the Chief Customs Authority, he shall be guilty of a breach of official trust, and shall, upon conviction thereof, be punishable in the manner provided by section 4 of the <sup>1</sup> Indian Official Secrets Act, 1889.

(3) The restriction imposed by section 5 of the last-mentioned Act shall not apply to a prosecution for a breach of an official trust under this Act.

*Export and Drawback.*

Grant of  
certificate  
when  
dutiable goods  
are to be  
exported to  
foreign port.

18. If any dutiable goods are exported by sea to any foreign port before the return in respect of them has been delivered to the Collector under section 8, the owner of the mill in which they were produced may apply in writing to the Customs Collector at the port of shipment, who, on being satisfied that such goods have actually been shipped for export, shall issue a

<sup>1</sup> *Supra.*

## (Part I.—Excise.)

certificate stating the quantity and particulars of such goods and that they have actually been so shipped.

19. When any certificate has been applied for under section 18, the quantity and particulars of the goods mentioned in the application shall be specified as so shipped in the return made under section 8 for any period not later than that in which they were shipped, and, if the Collector is satisfied that the said goods have been so shipped and that the condition (if any) imposed by rules under this Act have been complied with, the said goods shall be deducted in the assessment and collection of duty.

When certificate granted, goods to be exempt from duty.

20. (1) When any dutiable goods are exported by sea from any customs port to any foreign port, the exporter may apply to the Customs Collector at the port of shipment for the repayment as drawback of any duty which may have been paid under this Act in respect of such goods.

Repayment of duty in case of certain cotton goods exported to foreign ports.

(2) In every application made under sub-section (1) the applicant must state the description or descriptions of the goods in respect of which drawback is claimed, the mill at which the goods were produced, and, as nearly as possible, the dates on which they were produced, and such further particulars, if any, as may be prescribed.

21. (1) The drawback shall be allowed by the Collector if it is shown to his satisfaction that the goods in respect of which drawback is applied for have paid duty within twelve months of the date on which they are shipped for export, and that the conditions (if any) imposed by rule under this Act have been complied with.

When such refunds may be granted.

(2) Drawback shall not cease to be admissible merely by reason of the goods in respect of which it is applied for having been bleached, dyed, coloured or printed after having been produced within the meaning of section 6.

(1) The Governor General in Council may, from time to time, by notification in the Gazette of India, prohibit the payment drawback on the exportation of cotton goods to any specified foreign port.

Power to prohibit repayment of duty in case of exportation to certain ports.

(2) Any notification already made under section 22 of the <sup>1</sup> Cotton Duties Act, 1894, shall be deemed to have been made under this section.

23. Notwithstanding anything herein contained no drawback shall be allowed in respect of any cotton goods on which duty has been paid—

No repayment of duty to be granted in certain cases.

(a) when the goods are of less value than the amount of drawback claimed, or

XVII of  
1894.

<sup>1</sup> Repealed by this Act.



## (Part I.—Excise.)

(b) when the claim is for drawback amounting to less than five rupees in respect of any single shipment.

Application  
of sections 51  
and 52 of  
Principal Act  
to claims  
under this  
Act.

24. Sections 51 and 52 of the <sup>1</sup> Principal Act shall apply to every claim for drawback under this Act.

Punishments  
for offences.

*Offences and Penalties.*

25. The offences mentioned in the first column of the following schedule shall be punishable to the extent mentioned in the second column thereof with reference to such offences respectively :—

- |   |  |
|---|--|
| 1. Contravening any rule made under this Act.   | Penalty not exceeding five hundred rupees.   |
| 2. Concealing or attempting to conceal, or knowingly permitting or procuring to be concealed, any goods liable to duty under this Act with intent to evade payment of the duty or any part thereof. | Such goods shall be liable to confiscation, and every person convicted of the offence shall be liable to a penalty not exceeding three times the value of the goods.   |
| 3. Omitting to make any return required by section 8 or refusing to sign or complete the same.  | Penalty not exceeding one thousand rupees.   |
| 4. Making and delivering any such return containing any statement not true to the best of the information and belief of the person making the same.   | The penalty provided in the <sup>2</sup> Indian Penal Code, section 199, for making a false statement in a declaration. XLV of 1860                                    |
| 5. Altering or falsifying any record or book of account kept in the mill with the intention of defrauding the revenue.  | The penalty provided in the <sup>2</sup> Indian Penal Code, section 465, for the commission of forgery.  |
| 6. Omitting, without reasonable cause, to keep samples as provided in section 28.   | A penalty for each offence not exceeding two hundred rupees.   |
| 7. Omitting to keep such proper records and books of accounts as may be prescribed by any rule under this Act.  | Penalty not exceeding five hundred rupees and a further penalty of twenty rupees for every day after the date of the conviction during which the offence is continued. |
| 8. Omitting to make and deliver any return which by any rule under this Act ought to have been made and delivered.  | Penalty not exceeding one thousand rupees.   |
| 9. Intentionally obstructing any Collector or other officer in the exercise of any powers given under this Act.   | Imprisonment for a term not exceeding six months, or fine not exceeding one thousand rupees, or both.  |

<sup>1</sup> The Sea Customs Act, 1878 (8 of 1878), *see s. 3 (1)*, Genl. Acts, Vol. II.

<sup>2</sup> Genl. Acts, Vol. I.

## (Part I.—Excise.)

10. If any goods in respect of which a certificate has been obtained under section 18, or any goods on the entry of which for export drawback has been paid, are not duly exported or are unshipped or relanded at any customs port, not having been duly relanded or discharged under the provisions of the <sup>1</sup>Principal Act.
- Such goods, together with any vessel used in the unshipping or relanding them, shall be liable to confiscation, and the master of the vessel from which such goods are so unshipped or relanded, and any person by whom or by whose orders or means such goods are so unshipped or relanded, or who aids or is concerned in such unshipping or relanding, shall be liable to a penalty not exceeding three times the value of such goods, or not exceeding one thousand rupees.
11. If any goods are entered for drawback which are of less value than the drawback claimed.
- Such goods shall be liable to confiscation.
12. If any goods are found concealed in any place, box or closed receptacle in any mill and are not duly accounted for to the satisfaction of the Collector.
- Such goods shall be liable to confiscation.
13. If any goods are found in any mill in excess of the quantity entered in the return or not corresponding with the statement therein contained.
- Such goods shall be liable to confiscation or to be charged with such increased duty as the Chief Customs Authority may direct.
14. If when any cotton goods are passed by tale or by package any omission or misdescription thereof tending to injure the revenue be discovered.
- The person guilty of such omission or misdescription shall be liable to a penalty not exceeding ten times the amount of duty which might have been lost to the Government by such omission or misdescription, unless it be proved to the satisfaction of the Collector or other officer that the variance was accidental.
15. If any Collector or officer subordinate to a Collector does any act or is guilty of any omission in contravention of this Act or of any rule or order made thereunder; or, with intent to cause injury or annoyance to any person, vexatiously and unnecessarily makes use of any power conferred upon him under this Act.
- Such Collector or officer shall be liable on conviction to a fine not exceeding five hundred rupees.
16. The offences described in the <sup>1</sup>Principal Act, section 167, Schedule Nos. 41—53, both inclusive, in reference to warehousing of dutiable goods.
- The penalties prescribed in the same Schedule in respect of such offences respectively.

26. All offences against this Act may be tried summarily by a District or Presidency Magistrate or a Magistrate of the First Class.

27. Section 168 of the <sup>1</sup>Principal Act shall apply to all cases of confiscation of goods under this Act.

Magistrates having jurisdiction.

Application of section 168 of Principal Act to cases of confiscation under this Act.

<sup>1</sup> The Sea Customs Acts, 1878 (8 of 1878), *see s. 3 (1)*, Genl. Acts, Vol. II.

## (Part I.—Excise.)

*Miscellaneous.*

Samples of certain goods to be taken by mill-owners at time of manufacture and to be available for inspection.

28. (1) The owner of every mill shall, in the case of any goods other than those for which tariff values have been fixed under section 7, take a sample or samples of such goods, at the time of manufacturing the same, and shall preserve such samples for reference for at least six months after the said goods are produced.

(2) Such samples shall be at all times available for inspection by the Collector, or by any officer appointed under section 16 ; and an examination thereof shall, if the goods themselves cannot conveniently be examined, be deemed to be an examination of the goods within the meaning of section 31 of the <sup>1</sup>Principal Act.

(3) The Governor General in Council may define by rule what shall in any specified case be a sufficient sample for the purposes of this section.

Power to Collector to take samples.

29. (1) The Collector or any officer appointed under section 16 may at any time take samples of any goods for examination or for ascertaining the value thereof, or for any other necessary purpose.

(2) The owner may when required to deliver any sample to an officer appointed under section 16 seal up such sample in a cover addressed to the Collector ; and in such case the said officer shall deliver such cover intact to the Collector.

(3) Every sample shall, if practicable, be restored to the owner, or, at his option, sold by the Collector, and the proceeds accounted for to the owner.

30. The owner of every mill shall keep such records and books of account as may be prescribed by any rules under this Act.

Records and accounts to be kept by mill-owners. Mill-owners to make periodical returns of cotton yarn spun by machinery.

31. The owner of every mill or place where cotton yarn is spun by machinery moved otherwise than by manual labour shall make periodical returns to the Collector of the quantity and description of all such yarns, in such form, with such particulars, and at such intervals, as may be prescribed by any rule under this Act.

Application of certain provisions of Principal Act to proceedings under this Act.

32. All the provisions of Chapter XVII of the <sup>1</sup>Principal Act, except sections 169, 170, 177, 182, 184, 185, 187, 190, 191 and 193, shall apply to all proceedings under this Act.

Power to Local Government to reverse or modify orders under this Act.

33. The Local Government may, on the application of any person aggrieved by any decision or order passed under this Act, reverse or modify such decision or order.

<sup>1</sup> The Sea Customs Act, 1878 (8 of 1878), *see* s. 3 (1), Genl. Acts, Vol. II.

## (Part I.—Excise. Part II.—Inland Customs Duties.)

34. The provisions of sections 198, 201, 204, 205 and 206 of the <sup>1</sup>Principal Act shall be deemed to be incorporated in this Act.

Certain provisions of Principal Act to be incorporated in this Act.

VIII of 1894. 35. The provisions of section 10 of the <sup>2</sup>Indian Tariff Act, 1894, shall apply to duties on cotton goods imposed under this Act.

Application of section 10, Act VIII, 1894, to duties under this Act.

36. (1) The Governor General in Council may from time to time <sup>3</sup>make rules under this Act,—

Power to Governor General in Council to make rules.

- (a) prescribing the <sup>4</sup>form of any return required by or under this Act and the particulars to be contained therein respectively, and the manner in which the same is to be verified, and all such other conditions in respect thereof as may be necessary ;
- (b) requiring returns of yarns spun ;
- (c) prescribing the form of the notice to be issued by the Collector under section 9 ;
- (d) regulating the inspection of mills, and the powers and duties of Collectors and other officers in respect thereof ;
- (e) regulating the provision of warehouses under this Act, and the deposit and discharge of goods therein and therefrom, and the powers and duties of the Collector in respect thereof ;
- (f) prescribing the records and books of account to be kept by owners of mills under this Act ;
- (g) prescribing the conditions under which alone exemption from duty and repayment as drawback shall be allowed under sections 19 and 21 ; and
- (h) generally, for carrying into effect the provisions of this Act.

(2) The application of any such rule may be confined to any place or places specified therein.

## PART II.

## INLAND CUSTOMS DUTIES.

37. (1) Duties of customs shall be levied at the rates for the time <sup>Levy of</sup> duties on

<sup>1</sup> The Sea Customs Act, 1878 (8 of 1878), *see* s. 8 (1), Genl. Acts, Vol. II.

<sup>2</sup> *Supra*.

<sup>3</sup> For rules made under this section, *see* Genl. Stat. R. & O., Vol. III.

<sup>4</sup> For form of return of cotton yarn produced in Ajmer, *see* Aj. R. and O., Vol. I.

(Part II.—Inland Customs Duties. Part III.—Transitory Provisions.)

cotton goods passing into British India from foreign territory.

being prescribed in the <sup>1</sup> Indian Tariff Act, 1894, upon cotton goods passing VIII of 1894. into British India out of any territory declared, under the power hereinafter in this section conferred, to be foreign territory.

(2) The Governor General in Council may, by notification in the Gazette of India, declare that any territory situated within or bordering on, but not forming part of, British India shall be deemed, for the purposes of this section, to be foreign territory.

(3) The Governor General in Council may, from time to time, by notification in the Gazette of India, prohibit or restrict the bringing of cotton goods into British India from any such foreign territory, or prescribe the routes by which alone they may be brought.

(4) The provisions of section 19A of the <sup>2</sup>Principal Act shall apply to all goods brought or attempted to be brought into British India in contravention of any such notification.

Application of provisions of Principal Act as to drawback to goods taxed under this Part.

38. The provisions of the <sup>2</sup> Principal Act as to drawback on export shall apply to all goods upon which duty has been paid under this Part.

### PART III.

#### TRANSITORY PROVISIONS.

Drawback in respect of yarns in mills produced, purchased or imported before the 23rd January 1896.

39. If any mill-owner has in his mill, at the commencement of this Act, any yarns which, before the twenty-third day of January, 1896,—

- (a) were produced at his mill within the meaning of clause (b) of the *explanation* to section 5 of the <sup>2</sup> Cotton Duties Act, 1894, or
- (b) were obtained by purchase or on account from another mill-owner, after having been produced by the latter, within the meaning of clause (c) of the said *explanation*, or
- (c) were imported and customs-duty paid thereon, and have not before the commencement of this Act formed part of any goods produced within the meaning of this Act, he shall be entitled to receive, by way of deduction from the amount of duty payable in respect of any goods produced out of such yarns at any time within three months after the passing of this Act, an amount not exceeding the duty which he may show to the satisfaction of the Collector to

XVII of 1894.

<sup>3</sup> *Supra*.

<sup>2</sup> The Sea Customs Act, 1878 (8 of 1878), *see s. 3 (1)*, Genl. Acts, Vol. II.

<sup>1</sup> Repealed by this Act.

*(Part III.—Transitory Provisions.)*

VIII of 1894.

have been paid upon such yarns, under the operation of the<sup>1</sup>Cotton Duties Act, 1894, or the <sup>2</sup>Indian Tariff Act, 1894:

Provided that the said yarns shall not have been used solely for borders.

40. (1) Any mill-owner who intends to claim drawback under section 39 shall within a week after the passing of this Act deliver to the Collector a full statement showing,—

Mode of making claims for drawback under section 39.

with respect to clauses (a) and (b) of the said section, the quantity and count of yarn and, as far as possible, the monthly returns in which they were included ;

with respect to clause (c) of the said section, the quantity and count of yarn and the date and particulars of the payment of import duty thereon.

(2) Such statement shall be subscribed and verified by the mill-owner, and the Collector may, by inspection or otherwise, satisfy himself of its correctness.

(3) No deduction shall be allowed under section 39 unless the yarns in respect of which deduction is claimed have been included in the statement prepared under this section.

41. (1) No duty shall be levied under this Act on any goods which at the commencement of this Act are upon the premises of any mill and are ready for issue therefrom, either without undergoing any further process, or after being made up into bales or packets :

Provision with respect to goods in stock.

Provided that a list of such goods be made up and deposited with the Collector within seven days from the commencement of this Act.

(2) The returns of [the production of such goods prepared under section 8 of this Act shall be separate from those of other goods.

XVII of 1894.

42. The return of yarn prescribed by section 7 of the Cotton Duties Act, 1894, which would, but for the repeal of the said Act, become due for delivery to the Collector on or before the fifteenth day of February, 1896, shall be prepared and delivered as if the said Act were still in force ; but no duty shall be assessed or collected in respect of any yarn produced on or after the twenty-third day of January, 1896.

Return of yarn as under section 7, Act XVII, 1894, to be delivered in February, 1896, but no duty leviable on yarn produced on or after the 23rd January, 1896.

<sup>1</sup> Repealed by this Act.

<sup>2</sup> *Supra*.

ACT No. III OF 1896.<sup>1</sup>

[3rd February, 1896.]

An Act to amend the <sup>2</sup> Indian Tariff Act, 1894.

WHEREAS it is expedient to repeal Schedules II to V, both inclusive, of the <sup>2</sup>Indian Tariff Act, 1894, as amended by <sup>3</sup>Act XVI of 1894, and to substitute other Schedules for them ; It is hereby enacted as follows :—

Substitution  
of new  
Schedules for  
Schedule II  
to V, Act  
VIII, 1894, as  
amended by  
Act XVI,  
1894.

For Schedules II to V, both inclusive, appended to the said <sup>2</sup>Indian Tariff Act, 1894, as so amended, the Schedules appended to this Act shall be substituted. III of 1894.

SCHEDULES II TO V. [*Supra*, pp. 389 to 414.]ACT No. VI OF 1896.<sup>4</sup>

[27th February, 1896.]

An Act to amend the <sup>5</sup> Indian Penal Code.

WHEREAS it is expedient to amend the <sup>5</sup> Indian Penal Code ; It is hereby enacted as follows :—

Substitution  
of new para-  
graph for  
paragraph 2  
of section  
230 of Code.

1. (1) For the second paragraph of section 230 of the said Code the following shall be substituted, namely :—

“ Queen’s coin is metal stamped and issued by the authority of the Queen, or by the authority of the Government of India, or of the Government

<sup>1</sup> Short title, “ The Indian Tariff Act (1894) Amendment Act, 1896,” see the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1896, Pt. V, p. 34 ; for Report of the Select Committee, see *ibid*, Pt. IV, p. 29, and for Proceedings in Council, see *ibid*, Pt. VI, pp. 21 and 75.

This Act has been declared in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3, as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3 Ben. Code, Vol. I.

<sup>2</sup> *Supra*.

<sup>3</sup> The Indian Tariff Act, 1894 (16 of 1894), is virtually repealed by this Act, and it has not therefore been republished.

<sup>4</sup> Short title, “ The Indian Penal Code Amendment Act, 1896,” see the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1895, Pt. V, p. 157 ; for Report of the Select Committee, see *ibid*, 1896, Pt. V, p. 133 and for Proceedings in Council, see *ibid*, 1895, Pt. VI, p. 320, and *ibid*, 1896, Pt. VI, pp. 294 and 109.

As being part of Act 45 of 1860, it is in force in Upper Burma (except the Shan States), see the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

It was also extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), to British Baluchistan, see Gazette of India, 1896, Pt. II, p. 1004.

It is in force in tracts in the Chin Hills to which the Chin Hills Regulation, 1896 (5 of 1896), has been extended as being part of Act 45 of 1860, which is included in the Schedule to that Regulation, Bur. Code.

It has been declared in force in the Sonthal Parganas, by the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3, as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, Ben. Code, Vol. I.

<sup>5</sup> Genl. Acts, Vol. I.

of any Presidency, or of any Government in the Queen's dominions, in order to be used as money ; and metal which has been so stamped and issued shall continue to be the Queen's coin for the purposes of this Chapter, notwithstanding that it may have ceased to be used as money."

(2) To the illustrations appended to the said section the following shall be added, namely :—

"(e) The ' Farukhabad rupee,' which was formerly used as money under the authority of the Government of India, is Queen's coin, although it is no longer so used."

### ACT No. VIII OF 1896.<sup>1</sup>

[5th March, 1896.]

An Act to provide for the establishment of bonded warehouses at places other than customs-ports, and to afford facilities for the bonding of salt in such warehouses.

WHEREAS it is expedient to provide for the establishment of bonded warehouses at places other than customs-ports, and to afford facilities for the bonding of salt in such warehouses ; It is hereby enacted as follows :—

VIII of 1878.

1. (1) This Act may be called the Inland Bonded Warehouses Act, 1896.

Title, construction and commencement.

(2) It shall be read with, and taken as part of, the <sup>2</sup>Sea Customs Act, 1878 ; and

(3) It shall come into force at once.

2. Sections 5 to 7, both inclusive, of this Act shall extend only to such parts of British India as the Governor General in Council may from time to time by notification in the Gazette of India, <sup>3</sup> direct in this behalf.

Extent.

### *Inland Bonded Warehouses.*

XXI of 1887.

3. (1) The Inland Bonded Warehouses Act, 1887, is hereby repealed.

Repeal.

II of 1896.

(2) The reference to that Act in section 3, clause (7), of the <sup>4</sup>Cotton Duties Act, 1896, shall be read as if it were made to this Act.

VIII of 1878.

4. (1) Notwithstanding anything contained in the <sup>2</sup>Sea Customs Act, 1878, the Chief Customs-authority may from time to time, with the previ-

Inland bonded warehouses and law applicable thereto.

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1895, Pt. V, p. 54 ; for Report of the Select Committee, *see* *ibid.*, 1896, Pt. V, p. 145, and for Proceedings in Council, *see* *ibid.*, 1895, Pt. VI, p. 238, and *ibid.*, 1896, Pt. VI, pp. 2, 104 and 114.

<sup>2</sup> Genl. Acts, Vol. III.

<sup>3</sup> Ss. 5 to 7 have been extended to the territories administered by the Government of Bengal, *see* Gazette of India, 1897, Pt. I, p. 161.

<sup>4</sup> *Supra.*



ous sanction of the Local Government, appoint a public or license a private warehouse at any place which is not a warehousing port, and may with the like sanction cancel such appointment or license.

(2) In reference to such a place and a warehouse appointed or licensed thereat the provisions of the said Act with respect to the levy of customs-duties on goods brought in bond from one customs-port to another, and with respect to warehousing, shall be construed as if the place were a customs-port and a warehousing port, and the warehouse a public or a private warehouse, as the case may be, appointed or licensed thereat under that Act.

(3) All rules applicable to such warehouses, and to the weighment and removal thereto of salt, and in force at the commencement of this Act, shall remain so applicable until they shall be duly superseded or altered.

(4) Every warehouse appointed or licensed under the provisions of the <sup>1</sup>Inland Bonded Warehouses Act, 1887, shall be deemed to have been appointed **XXI of 1887.** or licensed under this Act.

#### *Salt Time-Bonds.*

Conveyance  
of salt to  
inland bond-  
ed ware-  
houses under  
bonds.

5. Notwithstanding anything contained in the <sup>2</sup>Sea Customs Act, 1878, **VIII of 1887.** or in section 4 of this Act, the Chief Customs-authority may permit salt removed from ship board or from a warehouse appointed or licensed under the <sup>2</sup>Sea Customs Act, 1878, to be conveyed, a under bond securing the subsequent payment of the duty leviable in respect of the salt so removed and in accordance with such rules as may be prescribed in this behalf by the Local Government, to a warehouse appointed or licensed for that purpose by the Chief Customs-authority.

Form of  
bond.

6. Every bond executed in accordance with the provisions of the last preceding section shall be in the form hereto annexed, or, when such form is inapplicable or insufficient, in such other form as is from time to time prescribed by the Chief Customs-authority :

Provided that the time allowed by such bond for the payment of the duty leviable on the salt included therein shall not exceed the time within which it may reasonably be expected that the whole of such salt shall have passed into consumption, and shall in no case exceed six months :

Provided, also, that the Chief Customs-authority may at any time require the duty to be paid to the extent to which the salt may have been delivered from the warehouse.

<sup>1</sup> Repealed by this Act.

<sup>2</sup> Genl. Acts, Vol. II.

7. The Local Government may, with the previous sanction of the Governor General in Council, make rules,<sup>1</sup> consistent with the provisions of this Act, to regulate—

Power to  
make rules.

- (1) the appointment or licensing of warehouses under section 5 ;
- (2) the inspection by Government officers of such warehouses ;
- (3) the safe custody of salt in transit under the provisions of the said section ;
- (4) the removal of salt from a warehouse appointed or licensed under the said section ;
- (5) the nature of the security to be required from a person executing a bond in accordance with the provisions of the said section and the time and place of payment of the sum recoverable under such bond ; and
- (6) generally such other matters as may be deemed necessary to secure the safety of the public revenue.

8. Nothing in section 5 or section 6 shall prevent the removal of salt in any manner in which it may for the time being be lawfully removeable under section 4.

Saving.

### FORM OF BOND.

(See section 6.)

No. 189 .

We, A. B.,

now of

; and C. D.,

, of the same place, are jointly and severally bound to Her Majesty's Secretary of State for India in Council in the sum of Government rupees to be paid to the said Secretary of State in Council for which payment we jointly and severally bind ourselves and our legal representatives.

(Date)

(Signed)

The above bounden , having applied to the officer in charge of the Custom-house at for and obtained permission to lodge in a warehouse appointed or licensed under the Inland Bonded Warehouses Act, 1896, and situated at , for

<sup>1</sup> For rules made by the Government of Bengal under this section, see Ben. Stat. R. and O., Vol. IV.

a period of \_\_\_\_\_ months, the following goods, that is to say, \_\_\_\_\_ maunds of salt imported by sea from \_\_\_\_\_

on board of the ship \_\_\_\_\_ and entered in the Custom-house books as No. \_\_\_\_\_ of the Register of goods imported by sea ;

The condition of this bond is that

If the said \_\_\_\_\_ or their legal representatives shall observe all the rules prescribed under the said Inland Bonded Warehouses Act, 1896, to be observed by the owners of goods warehoused and persons obtaining permission to warehouse goods under the provisions thereof ;

And if the said \_\_\_\_\_ or their legal representatives shall pay to the officer in charge of the Custom-house at the port of \_\_\_\_\_, or to the Collector of \_\_\_\_\_, all dues, including customs-duties or other lawful charges, which shall be demandable on the said salt or on account of penalties incurred in respect thereto, within \_\_\_\_\_ from the date of this bond, together with interest on every such sum at the rate of six per cent. per annum from the date of demand thereof being made in writing by the said officer in charge of the Custom-house ;

And if, within the term so fixed or such further period (if any) as may be granted by the Chief Customs-authority for the payment thereof, the full amount of all customs-duties and other lawful charges, penalties and interest demandable as aforesaid shall have been first paid on the whole of the said salt ;

This obligation shall be void.

Otherwise, and on breach or failure in the performance of any part of this condition, the same shall be in force.

(Date)

(Signed) (            ).

ACT No. IX OF 1896.<sup>1</sup>

[5th March, 1896.]

An Act to amend the <sup>2</sup>Indian Railways Act, 1890.

IX of 1890.

WHEREAS it is expedient to amend the <sup>2</sup>Indian Railways Act, 1890; It is hereby enacted as follows :—

1. In section 7, sub-section (1), clause (a), of the said Act, after the word “roads,” in the second place in which it occurs, the words “lines of railway” shall be added.

Amendment of section 7, Act IX, 1890.

2. In section 10, sub-section (2), of the said Act, for the latter part of the sub-section after the words “so far as may be” the following shall be substituted, namely :—

Amendment of section 10, sub-section (2), Act IX, 1890.

I of 1894.

“with the provisions of sections 11 to 15, both inclusive, sections 18 to 34, both inclusive, and sections 53 and 54 of the <sup>3</sup>Land Acquisition Act, 1894, and the provisions of sections 51 and 52 of that Act shall apply to the award of compensation.”

3. In section 59, sub-section (3), of the said Act, for “sub-section (1)” “sub-section (2)” shall be substituted.

Amendment of section 59, sub-section (3), Act IX, 1890.

4. In section 73, sub-section (1), of the said Act, before the word “camels” the word “mules,” and before the word “sheep” the word “donkeys,” shall be added.

Amendment of section 73, sub-section (1), Act IX, 1890.

5. Section 81 of the said Act is repealed.

Repeal of section 81, Act IX, 1890.

6. In section 114 of the said Act, for the words “the return half” the words “any half,” and for the words “the return journey” the words “the journey,” shall be substituted.

Amendment of section 114, Act IX, 1890.

7. In section 136, sub-section (1), of the said Act, after the word “Court” the words “or of any local authority or person having by law power to attach or distrain property or otherwise to cause property to be taken in execution” shall be added.

Amendment of section 136, sub-section (1), Act IX, 1890.

<sup>1</sup> Short title, “The Indian Railways Act (1890) Amendment Act, 1896,” see the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1896, Pt. V, p. 125, and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 90 and 115.

As being part of the Indian Railways Act, 1890 (9 of 1890), it is in force in Upper Burma (except the Shan States), see the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

It has been declared in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3, as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, Ben. Code, Vol. I.

It has been extended, by notification under s. 5 of the Act last mentioned, to British Baluchistan, see Gazette of India, 1896, Pt. II, p. 1004.

<sup>2</sup> *Supra*.

<sup>3</sup> *Supra*.

ACT No. X OF 1896.<sup>1</sup>

[13th March, 1896.]

An Act to amend the <sup>2</sup> Indian Volunteers Act, 1869.

WHEREAS it is expedient to amend the <sup>2</sup> Indian Vo'unteers Act, 1869 XX of 1869. (hereinafter referred to as the said Act); It is hereby enacted as follows :—

Title, extent  
and com-  
mencement.

1. (1) This Act may be called the Indian Volunteers Act Amendment Act, 1896.

(2) It shall have the same extent as the <sup>2</sup> Indian Volunteers Act, 1869, XX of 1869. and

(3) It shall come into force at once.

Substitution  
of new sec-  
tion for sec-  
tion 4, Act  
XX, 1869.

2. For section 4 of the said Act the following shall be substituted, namely :—

“(1) ‘Magistrate’ means, within the limits of the Presidency-towns, the Chief Presidency Magistrate, and without those limits a Magistrate of the first class who is a Justice of the Peace :

(2) volunteers shall be deemed to be on ‘actual duty’—

(a) when being trained or exercised either alone or with any portion of the regular forces, or

(b) when attached to or otherwise acting as part of or with any regular forces, or

(c) when serving in aid of the civil power ; and

(3) ‘civil district’ means a district as defined in the <sup>3</sup> Code of Civil Pro- XIV of 1882. dure.”

Substitution  
of new sec-  
tion for sec-  
tion 8.

3. For section 8 of the said Act the following shall be substituted, namely :—

*Application of Army Act.*

Volunteers  
subjected to  
Army Act,  
1881, so far  
as it applies  
to officers.

“8. Every member of a corps of volunteers shall, for all military offences of which he shall be guilty whilst on actual duty or actual military service, be subject to the Army Act, <sup>4</sup> so far as the same is applicable to officers and consistent with the provisions of this Act.”

44 & 45 Vict.,  
c. 58.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1895, Pt. V, p. 49; for Report of the Select Committee, see *ibid*, 1896, Pt. V, p. 189; and for Proceedings in Council, see *ibid*, 1895, Pt. VI, p. 234, and *ibid*, 1896, Pt. VI, pp. 85, 98 and 122.

As being part of Act 20 of 1869, it was declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

It has been declared in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3, as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (3 of 1899) s. 3, Ben. Code, Vol. I.

<sup>2</sup> Genl. Acts, Vol. II.

<sup>3</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.

<sup>4</sup> Coll. Stat. Ind., Vol. II.

4. In section 12 of the said Act, for the words "Articles of War" the words "Army Act" shall be substituted.

Amendment of section 12, Act XX of 1869.

5. In section 13 of the said Act, after the words "actual duty" the words "or actual military service" shall be inserted.

Amendment of section 13, Act XX, 1869.

6. Subject to section 9 of this Act, for section 16 of the said Act the following section shall be substituted, namely :—

Substitution of new section for section 16, Act XX, 1869.

"16. No member of a corps or battalion of volunteers, other than naval volunteers, shall be bound, without his consent, to serve or proceed on duty beyond the limits of the civil district in which he was enrolled, or where a corps or battalion consists of volunteers enrolled in more civil districts than one beyond the limits of the territory comprised in those districts : and

Local limits of service.

No member of a corps of naval volunteers shall be bound, without his consent, to serve or proceed on duty beyond the limits of the port to which the corps belongs, such port being construed to include the city or town after which the corps is named and its suburbs, and the navigable rivers, channels and fairways leading thereto :

Provided that the Local Government or the Commissioner of the Division or other authority to whom power in this behalf may be delegated by the Local Government, may exempt from service any particular corps or portion of a corps or any individual member or members of a corps by name. Such exemption may be whole or partial in respect either of time or of area, or of both, as the empowered authority may see fit to prescribe."

7. Subject to section 9 of this Act, after section 26 of the said Act the following sections shall be added, namely :—

Addition of new sections after section 26, Act XX, 1869.

#### *"Supplemental.*

"27. (1) In case of actual or apprehended emergency (the occasion being first declared by the Governor General in Council and notified in the Gazette of India) the Governor General in Council may call out any corps or any portion of any corps of volunteers for actual military service.

Calling out of volunteer corps for actual military service.

(2) All members of any corps or portion of a corps so called out shall be bound, unless incapacitated by infirmity for military service, to assemble as the Governor General in Council may direct, and to proceed according to orders within the limits hereinbefore specified ; and, from the time of their corps or portion thereof being so called out, shall be deemed to be on actual military service .

Provided that the Local Government or the Commissioner of the Division or other authority to whom power in this behalf may be delegated by the Local Government, may exempt from service any particular corps or portion of a corps or any individual member or members of a corps by name. Such exemption may be whole or partial in respect either of time or of area, or of both, as the empowered authority may see fit to prescribe.

(3) After a corps or portion of a corps of volunteers has been called out for actual military service, the corps or portion of a corps shall be deemed to be released from actual military service only after a notification in the Gazette of India declaring the occasion to have passed, and not sooner or otherwise :

Provided that the Governor General in Council may at any time discharge any such corps or portion of a corps from actual military service.

(4) Before a corps or portion of a corps of volunteers is released from actual military service, provisions shall be made by the Government for the return of the volunteers present therewith to their homes.

"28. (1) The Governor General in Council may make rules<sup>1</sup> for—

- (a) the making of payments to, and the provision of transport and supplies for, volunteers called out on actual military service; and
- (b) the grant of pay, pensions, gratuities, allowances and rewards to them.

(2) The Governor General in Council may apply such rules or any part of them to any volunteers who may have been called out by any Magistrate or other authority in aid of the civil power :

and may in such case direct, any enactment notwithstanding, by whom the cost of the payments to be made and supplies to be provided under the rules shall be borne.

"29. Where a corps consists of volunteers enrolled in territories subject to more Local Governments than one, the Governor General in Council may, by notification in the Gazette of India, declare what Local Government shall for all or any of the purposes of this Act be deemed to be the Local Government with respect to the corps."

8. Whenever military operations are about to be undertaken or are in progress, any member of a volunteer corps may offer himself for actual military service ; and if the services of such member or members of any corps as in the opinion of the Governor General in Council is sufficient to enable them to be separately organized are accepted, then those members may be called out either as a corps or as part of a corps, and this Act shall apply to them.

<sup>1</sup> For rules made under this section to regulate the concessions admissible to volunteers called out for military service, *see* Genl. Stat. B. & O., Vol. I.

Power to  
make rules  
as to allow-  
ance to  
volunteers.

Appointment  
of Local  
Government  
to act with  
respect to  
corps having  
members  
enrolled in  
more provin-  
ces than one.  
Case of  
volunteers  
desiring to  
join in mili-  
tary opera-  
tions.

## 1896 : Act XI.]

## Legal Practitioners.

9. Nothing in the new section 16 substituted by section 6 of this Act or in the new section 27 added by section 7 of this Act shall apply to any volunteer who was enrolled before the commencement of this Act, unless he consents in writing to be bound by such new section 16 instead of by the section for which it is substituted, or by such new section 27, as the case may be.

Saving from new sections 16 and 27 in case of volunteers enrolled before commencement of this Act.

ACT No. XI OF 1896.<sup>1</sup>

[13th March, 1896.]

An Act to amend the <sup>2</sup> Legal Practitioners Act, 1879.

XVIII of  
1879.

WHEREAS it is expedient to amend the <sup>2</sup> Legal Practitioners Act, 1879 ; It is hereby enacted as follows :—

1. To section 3 of the said Act the following shall be added, namely :—

Addition to section 3, Act XVIII, 1879.

“ ‘Tout’ means a person who procures the employment in any legal business of any legal practitioner in consideration of any remuneration moving from such practitioner, or proposes to a legal practitioner to procure his employment in any legal business in consideration of such remuneration ”

“Tout.”

2. For section 13 of the said Act the following shall be substituted, namely :—

Substitution of new section for section 13, Act XVII, 1879.

“ 13. The High Court may also, after such inquiry as it thinks fit, suspend or dismiss any Pleader or Mukhtar holding a certificate as aforesaid—

Suspension and dismissal of Pleaders and Mukhtars guilty of unprofessional conduct.

XIV of 1882.

- (a) who takes instructions in any case except from the party on whose behalf he is retained, or some person who is the recognised agent of such party within the meaning of the <sup>3</sup> Code of Civil Procedure, or some servant, relative or friend authorised by the party to give such instructions, or
- (b) who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or
- (c) who tenders, gives or consents to the retention, out of any fee paid or payable to him for his services, of any gratification for procuring

<sup>1</sup> Short title, “The Legal Practitioners Act, 1896,” see the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1895, Pt. V, p. 172 ; for Report of the Select Committee, see *ibid.*, 1896, Pt. V, p. 149, and for Proceedings in Council, see *ibid.*, 1895, Pt. VI, p. 329, and *ibid.*, 1896, Pt. VI, pp. 3, 114 and 123.

<sup>2</sup> Genl. Acts, Vol. III.

<sup>3</sup> See now Act 5 of 1908, Genl. Acts, Vol. VI.



or having procured the employment in any legal business of himself or any other Pleader or Mukhtar, or

- (d) who, directly or indirectly, procures or attempts to procure the employment of himself as such Pleader or Mukhtar through, or by the intervention of, any person to whom any remuneration for obtaining such employment has been given by him, or agreed or promised to be so given, or
- (e) who accepts any employment in any legal business through a person who has been proclaimed as a tout under section 36, or
- (f) for any other reasonable cause.

Substitution  
of new  
section for  
section 22,  
Act XVIII,  
1879.

3. For section 22 of the said Act the following shall be substituted, namely :—

Suspension  
and dismissal  
of Revenue  
Agents  
guilty of  
unprofessional  
conduct.

“22. The Chief Controlling Revenue-authority may also, after such enquiry as it thinks fit, suspend or dismiss any Revenue Agent holding a certificate as aforesaid—

- (a) who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or
- (b) who tenders, gives or consents to the retention, out of any fee paid or payable to him for his services, of any gratification for procuring or having procured the employment in any legal business of himself or any other Revenue Agent, or
- (c) who, directly or indirectly, procures or attempts to procure the employment of himself as such Revenue Agent through, or by the intervention of, any person to whom any remuneration for obtaining such employment has been given by him, or agreed or promised to be so given, or
- (d) who accepts any employment in any legal business through a person who has been proclaimed as a tout under section 36, or
- (e) for any other reasonable cause.

Substitution  
of new  
section for  
section 36,  
Act XVIII,  
1879.

4. For section 36 of the said Act the following shall be substituted, namely :—

Power to  
frame and  
publish lists  
of touts.

“36. (1) Every High Court, District Judge, Sessions Judge, District Magistrate and Presidency Magistrate, every Revenue-officer, not being below the rank of a Collector of a District, and the Chief Judge of every Presidency Small Cause Court (each as regards their or his own Court and the Courts, if

any, subordinate thereto) may frame any and publish lists of persons proved to their or his satisfaction, by evidence of general repute or otherwise, habitually to act as touts, and may, from time to time, alter and amend such lists.

(2) No person's name shall be included in any such list until he shall have had an opportunity of showing cause against such inclusion.

(3) A copy of every such list shall be kept hung up in every Court to which the same relates.

(4) The Court or Judge may, by general or special order, exclude from the precincts of the Court any person whose name is included in any such list.

(5) Every person whose name is included in any such list shall be deemed to be proclaimed as a tout within the meaning of section 13, clause (e), and section 22, clause (d)."

#### ACT No. I OF 1897.<sup>1</sup>

[14th January, 1897.]

An Act to amend <sup>2</sup>Act XXXVII of 1850 (*for regulating Inquiries into the behaviour of Public Servants*).

WHEREAS it is expedient to amend <sup>2</sup>Act XXXVII of 1850 (*for regulating Inquiries into the behaviour of Public Servants*); It is hereby enacted as follows :—

1. The said <sup>2</sup>Act XXXVII of 1850 may be called the Public Servants Inquiries Act, 1850. Title of Act  
XXXVII,  
1850.

2. In the preamble to the said Act, after the word "removable" the words "from their appointments" shall be inserted, and for the words "the East India Company" the word "India" shall be substituted. Amendment  
of preamble  
to Act  
XXXVII,  
1850.

3. In section 2 of the said Act, for the words "the East India Company, not removable from his office without the sanction of the same Government," Amendment  
of section

<sup>1</sup> Short title, "The Public Servants (Inquiries) Act (1850) Amendment Act, 1897," see the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

For Statement of Objects and Reasons, see Gazette of India, 1896, Pt. V, p. 239; for Report of the Select Committee, see *ibid*, 1897, Pt. V, p. 5, and for Proceedings in Council, see *ibid*, 1896, Pt. VI, pp. 232 and 251; *ibid*, 1897, Pt. VI, pp. 2 and 9.

<sup>2</sup> Genl. Acts, Vol. I.

As being part of Act 27 of 1850, it is in force in Upper Burma (except the Shan States), see the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

As part of that Act it came into force in the following Scheduled Districts when Act 27 of 1850 was declared in force there by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), namely, (1) the whole of Assam except the district of Sylhet and the North Lushai Hills, see Gazette of India, 1897, Pt. I, p. 299, (2) the Porahat Estate in the Singbhum District, see *ibid*, 1897, Pt. I, p. 1059, (3) the Scheduled Districts in Ganjam and Vizagapatam, see *ibid*, 1898, Pt. I, p. 870.

2, Act  
XXXVII,  
1850.

Substitution  
of new sec-  
tion for sec-  
tion 23, Act  
XXXVII,  
1850.

Powers of  
Government  
under this  
Act by  
whom exer-  
cisable.

the words "the Government, not removable from his appointment without the sanction of the Government," shall be substituted.

4. For section 23 of the said Act the following section shall be substituted, namely :—

" 23. The powers of the Government under this Act may in all cases be exercised by the Governor General in Council, and when the person accused can be removed from his appointment by the Local Government, those powers may also be exercised by the Local Government."

### ACT No. II OF 1897.<sup>1</sup>

[28th January, 1897.]

#### An Act to amend the <sup>2</sup> Criminal Tribes' Act, 1871.

WHEREAS it is expedient to amend the <sup>2</sup> Criminal Tribes' Act, 1871; it is hereby enacted as follows : XXVII of 1871.

Title and  
commence-  
ment.

1. (1) This Act may be called the Criminal Tribes' Act Amendment Act, 1897; \*3

(2) \* \* \* \* \*

Addition of  
proviso to  
section 1,  
Act XXVII,  
1871.

2. To section 1 of the Criminal Tribes' Act, 1871, the following proviso shall be added, namely :— XXVII of 1871.

" Provided that any Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare all or any of the provisions of this Act, as amended by subsequent legislation, to be in force in the whole or any part of the territories under its government."

Addition of  
new section  
after section  
1, Act  
XXVII,  
1871.

3. After section 1 of the <sup>2</sup> Criminal Tribes' Act, 1871, the following section shall be inserted, namely :— XXVII of 1871.

Definition of  
tribe, gang  
and class.

" 1A. In this Act the words 'tribe,' 'gang' and 'class' shall be deemed to include any portion or members of a tribe, gang or class."

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1896, Pt. V, p. 2; for Report of Select Committee, see *ibid*, 1897, Pt. V, p. 1, and for Proceedings in Council, see *ibid*, 1896, Pt. VI, p. 7, *ibid*, 1897, Pt. VI, pp. 2 and 12.

<sup>2</sup> Genl. Acts, Vol. II.

<sup>3</sup> The word "and," and sub-section (2) as to commencement of Act were repealed by the Repealing and Amending Act, 1903 (1 of 1903).

4. After section 17 of the said Act the following section shall be added, namely :—

Addition of new section after section 17, Act XXVII, 1871.  
Power to place children in reformatory settlements established for children and to apprentice them.

“17A. (1) The Local Government may establish and maintain reformatory settlements for children and may separate and remove from their parents and place in such a reformatory settlement the children of the registered members of any tribe, gang or class which has been declared to be criminal.

(2) For every reformatory settlement for children established under subsection (1) a Superintendent shall be appointed by the Local Government.

(3) The Superintendent of the reformatory settlement for children shall be deemed to be the guardian, within the meaning of Act No. XIX of 1850 (*concerning the binding of apprentices*), of every child detained in such settlements; and such Superintendent may, if he shall think fit, and subject to any rules which the Local Government may make in this behalf, apprentice such child under the provisions of the aforesaid Act.

“*Explanation.*—The term ‘children’ in this section includes all persons under the age of eighteen and above the age of four years.”

5. For section 19 of the said Act the following section shall be substituted, namely :—

Substitution of new section for section 19, Act XXVII of 1871.  
Penalties for breach of rules.

“19. (1) Any person registered under this Act violating a rule made under clause (4), clause (5) or clause (6) of section 18 shall be punishable with rigorous imprisonment for a term which may extend, on a first conviction, to one year, on a second conviction, to two years, and, on any subsequent conviction, to three years, and shall also, whether on the first or any subsequent conviction, be liable to whipping.

(2) Any person being a member of a proclaimed tribe violating a rule made under any other clause of section 18 shall be punishable with rigorous imprisonment for a term which may extend to six months, or with fine, or with whipping, or with all or any two of those punishments; and, on any subsequent conviction for a breach of any such rule, with rigorous imprisonment for a term which may extend to one year, or with fine, or with whipping, or with all or any two of those punishments.”

6. After section 19 of the said Act, the following sections shall be added, namely :—

Addition of two new sections after section 19, Act XXVII, 1871.  
Enhanced punishment.

“19A. Whoever, being a member of any tribe, gang or class which has

for certain offences by members of criminal tribe after previous conviction.

been declared criminal, and having been convicted of any of the offences under the <sup>1</sup> Indian Penal Code specified in the schedule to this Act, shall thereafter be convicted of the same or any other offence specified in the said schedule, then he shall, in the absence of special reasons to the contrary to be mentioned in the judgment of the Court, be punished, on such second conviction, with rigorous imprisonment for a term of not less than seven years, and on a third conviction with transportation for life.

XIV of 1860.

Nothing in this section shall affect the liability of such person to any further or other punishment to which he may be liable under the <sup>1</sup> Indian Penal Code or any other law.

Punishment for members of criminal tribe found under suspicious circumstances.

"19B. Whoever, being a registered member of any tribe, gang or class which has been declared criminal, is found in any place under such circumstances as to satisfy the Court that he was about to commit, or aid in the commission of, theft or robbery, or that he was waiting for an opportunity to commit theft or robbery, shall be punishable with rigorous imprisonment for a term which may extend to three years, and shall also be liable to fine."

Addition of schedule to Act XXVII of 1871.

7. To the said Act the schedule in the schedule to this Act shall be added.

## THE SCHEDULE.

(See section 7.)

## THE SCHEDULE.

(See section 19A.)

### CERTAIN OFFENCES PUNISHABLE UNDER CHAPTERS XVI AND XVII OF THE

#### <sup>1</sup> INDIAN PENAL CODE.

#### CHAPTER XVI.

##### SECTIONS.

- 299. Culpable homicide.
- 307. Attempt to murder.
- 308. Attempt to commit culpable homicide.
- 310. Thug.
- 322. Voluntarily causing grievous hurt.
- 324. Voluntarily causing hurt by dangerous weapons or means.
- 326. Voluntarily causing grievous hurt by dangerous weapons or means.
- 327. Voluntarily causing hurt to extort property or to constrain to an illegal act.
- 328. Causing hurt by means of poison, etc., with intent to commit an offence.
- 329. Voluntarily causing grievous hurt to extort property or to constrain to an illegal act.
- 332. Voluntarily causing hurt to deter public servant from his duty.
- 333. Voluntarily causing grievous hurt to deter public servant from his duty.

## CHAPTER XVII.

## SECTIONS.

382. Theft after preparation made for causing death, hurt or restraint, in order to the committing of the theft.
383. Extortion.
385. Putting person in fear of injury in order to commit extortion.
386. Extortion by putting a person in fear of death or grievous hurt.
387. Putting person in fear of death or of grievous hurt in order to commit extortion.
390. Robbery.
391. Dacoity.
393. Attempt to commit robbery.
394. Voluntarily causing hurt in committing robbery.
397. Robbery or dacoity, with attempt to cause death or grievous hurt.
398. Attempt to commit robbery or dacoity when armed with deadly weapon.
399. Making preparation to commit dacoity.
402. Assembling for purpose of committing dacoity.
458. Lurking house-trespass or house-breaking by night after preparation for hurt, assault or wrongful restraint.
459. Grievous hurt caused whilst committing lurking house-trespass or house-breaking.
460. All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.

ACT No. III OF 1897.<sup>1</sup>

[4th February, 1897.]

An Act to provide for the better prevention of the spread of  
Dangerous Epidemic Disease.

WHEREAS it is expedient to provide for the better prevention of the spread of dangerous epidemic disease ; It is hereby enacted as follows :—

1. (1) This Act may be called the Epidemic Diseases Act, 1897.

(2) It extends to the whole of British India (inclusive of <sup>a</sup> \* \* British Baluchistan, the Santhal Parganas and the Pargana of Spiti) ; and

Short title,  
extent and  
commence-  
ment.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1897, Pt. V, p. 21 ; for Report of the Select Committee, see *ibid.*, p. 23, and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 18 and 24.

The Act was declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

It has been declared in force in the Santhal Parganas by notification under the Santhal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3, as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3, and in the Angul District under s. 5 of the Angul District Regulation, 1894 (1 of 1894), see Calcutta Gazette, 1899, Pt. I, p. 1064.

For the Regulations, see Ben. Code, Vol. I.

<sup>2</sup> The words "Upper Burma" were repealed by the Burma Laws Act, 1898 (13 of 1898), see fifth schedule, Bur. Code.

(3) It shall come into force at once.

Power to take special measures and prescribe regulations as to dangerous epidemic disease.

2. <sup>1</sup> (1) When at any time the Governor General in Council is satisfied that India or any part thereof is visited by, or threatened with, an outbreak of any dangerous epidemic disease, the Governor General in Council, if he thinks that the ordinary provisions of the law for the time being in force are insufficient for the purpose, may take or require or empower any person to take such measures and, by public notice, prescribe such temporary regulations to be observed by the public or by any person or class of persons as he shall deem necessary to prevent the outbreak of such disease or the spread thereof, and may determine in what manner and by whom any expenses incurred (including compensation if any) shall be defrayed.

(2) In particular and without prejudice to the generality of the foregoing provisions, the Governor General in Council may take measures and prescribe regulations for—

- (a) the inspection of any ship or vessel leaving,<sup>2</sup> or arriving at, any port in British India and such detention thereof, or of any person intending to sail therein or arriving thereby, as may be necessary ; and
- (b) the inspection of persons travelling by railway or otherwise, and the segregation, in hospital, temporary accommodation or otherwise, of persons suspected by the inspecting officer of being infected with any such disease.

(3) The Governor General in Council may, by general or special order,<sup>3</sup> direct that all or any of the powers conferred by this Act may also be exercised by any Local Government with respect to the territories administered by it.

Penalty.

3. Any person disobeying any regulation or order made under this Act shall be deemed to have committed an offence punishable under section 188 of the <sup>4</sup> Indian Penal Code.

XLV of 1860

<sup>1</sup> For notifications issued under this section for—

- (1) Bengal, including the districts now under E. B. & A., *see* Ben. Stat. R. and O., Vol. I.
- (2) Burma. *see* Bur. R. M., Vol. I.
- (3) Central Provinces, *see* Cen. Provs. R. and O.
- (4) Coorg, *see* Coorg R. and O.
- (5) Madras, *see* Mad. R. and O., Vol. I.
- (6) United Provinces of Agra and Oudh. *see* U. P. List of Local R. and O., Vol. I.

<sup>2</sup> For special provision as to inspection of passengers sailing for ports in the Red Sea, *see* s. 30 of the Native Passenger Ships Act, 1887 (10 of 1887), *supra*.

<sup>3</sup> For notification delegating powers under the Act to Local Governments, *see* Genl. Stat. R. and O., Vol. III, and for rules issued in Bengal in exercise of the powers conferred by that notification, *see* notification No. 85 Marine, dated 8th July 1901, in Calcutta Gazette, 1901, Pt. I, p. 887.

<sup>4</sup> Genl. Acts., Vol. I.

4. No suit or other legal proceeding shall lie against any person for anything done or in good faith intended to be done under this Act.

Protection to persons acting under Act.

### ACT No. IV OF 1897.<sup>1</sup>

[4th February, 1897.]

## An Act to provide for certain matters relating to Fisheries in British India.

WHEREAS it is expedient to provide for certain matters relating to fisheries in British India ; It is hereby enacted as follows :

1. (1) This Act may be called the Indian Fisheries Act, 1897.

Title, extent and commencement.

(2) It extends to the whole of British India, except <sup>2</sup>Burma, and

(3) It shall come into force at once.

1 of 1897. 2. Subject to the provisions of sections 8 and 10 of the <sup>3</sup>General Clauses Act, 1857, this Act shall be read as supplemental to any other enactment<sup>4</sup> for the time being in force relating to fisheries in any part of British India except Burma.

Act to be read as supplemental to other Fisheries Laws.

3. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(1) “ fish ” includes shell-fish :

(2) “ fixed engine ” means any net, cage, trap or other contrivance for taking fish, fixed in the soil or made stationary in any other way ; and

(3) “ private water ” means water which is the exclusive property of any person or in which any person has for the time being an exclusive right of fishery whether as owner, lessee or in any other capacity.

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1893, Pt. V, p. 101 ; for Report of the Select Committee, *see* *ibid*, 1897, Pt. V, p. 15, and for Proceedings in Council, *see* *ibid*, 1893, Pt. VI, p. 207, *ibid*, 1896, p. 250, and *ibid*, 1897, p. 21.

This Act was extended to British Baluchistan by notification under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), Genl. Acts, Vol. II, *see* Gazette of India, 1897, Pt. II, p. 792.

<sup>2</sup> As to law in force in Lower Burma, *see* the Burma Fisheries Act, 1905 (Bur. Act 3 of 1905), Bur. Code.

<sup>3</sup> *See* now ss. 4 and 26 of the General Clauses Act, 1857 (10 of 1857), *infra*.

<sup>4</sup> For law relating to Fisheries in—

(1) the Arakan Hills, *see* the Arakan Hill District Laws Regulation, 1874 (9 of 1874), s. 3, Bur. Code.

(2) Assam, *see* the Assam Land and Revenue Regulation, 1886 (1 of 1886), ss. 16 and 155, E. B. and A. Code, Vol. I.

(3) Bengal and Assam (Private Fisheries), *see* the Private Fisheries Protection Act, 1889 (Ben. Act 2 of 1889), E. B. and A. Code, Vol. III.

(4) Central Provinces, *see* Central Provinces Land Revenue Act, 1881 (18 of 1881), Cent. Provs. Code.

(5) Nilgiris District, as to acclimatised fish, *see* “ The Nilgiris Game and Fish Preservation Act, 1879 ” (Mad. Act 2 of 1879), Mad. Code, Vol. I.



*Explanation.*—Water shall not cease to be “private water” within the meaning of this definition by reason only that other persons may have by custom a right of fishery therein.

Destruction  
of fish by ex-  
plosives in  
inland waters  
and on coasts.

4. (1) If any person uses any dynamite or other explosive substance in any water with intent thereby to catch or destroy any of the fish that may be therein, he shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to two hundred rupees.

(2) In sub-section (1) the word “water” includes the sea within a distance of one marine league of the sea-coast: and an offence committed under that sub-section in such sea may be tried, punished and in all respects dealt with as if it had been committed on the land abutting on such coast.

Destruction  
of fish by  
poisoning of  
waters.

5. (1) If any person puts any poison, lime or noxious material into any water with intent thereby to catch or destroy any fish, he shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to two hundred rupees.

(2) The Local Government may, by notification in the official Gazette, suspend the operation of this section in any specified area, and may in like manner modify or cancel any such <sup>1</sup> notification.

6. (1) The Local Government may make rules<sup>2</sup> for the purposes herein-after in this section mentioned, and may by notification in the official Gazette apply all or any of such rules to such waters, not being private waters, as the Local Government may specify in the said notification.

(2) The Local Government may also, by a like notification, apply such rules or any of them to any private water with the consent in writing of the owner thereof and of all persons having for the time being any exclusive right of fishery therein.

(3) Such rules may prohibit or regulate all or any of the following matters, that is to say :—

- (a) the erection and use of fixed engines ;
- (b) the construction of weirs ; and
- (c) the dimension and kind of the nets to be used and the modes of using them.

(4) Such rules may also prohibit all fishing in any specified water for a period not exceeding two years.

<sup>1</sup> For instance of such a notification, see U. P. list of R. and O., Vol. I.

<sup>2</sup> For rules under s. 6 for—

(1) Bengal (Darjeeling District), see Bengal Stat., R. and O., Vol. I.

(2) Coorg, see Coorg R. and O. and Coorg District Gazette, Extraordinary, 1907, p. 2.

(3) North-West Frontier Provinces, see Gazette of India, 1902, Vol. II, p. 19.

(4) Punjab, see Punjab Gazette, 1900, Pt. I, pp. 101 and 279.

(5) In making any rule under this section the Local Government may—

(a) direct that a breach of it shall be punishable with fine which may extend to one hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to ten rupees for every day after the date of the first conviction during which the breach is proved to have been persisted in; and

(b) provide for—

(i) the seizure, forfeiture and removal of fixed engines, erected, or used, or nets used, in contravention of the rule, and

(ii) the forfeiture of any fish taken by means of any such fixed engine or net.

(6) The power to make rules under this section is subject to the condition that they shall be made after previous publication.

7. (1) Any police-officer, or other person<sup>1</sup> specially empowered by the Local Government in this behalf, either by name or as holding any office, for the time being, may, without an order from a Magistrate and without warrant, arrest any person committing in his view any offence punishable under section 4 or 5 or under any rule under section 6—

Arrest with-  
out warrant  
for offences  
under this  
Act.

(a) if the name and address of the person are unknown to him, and

(b) if the person declines to give his name and address, or if there is reason to doubt the accuracy of the name and address if given.

(2) A person arrested under this section may be detained until his name and address have been correctly ascertained :

Provided that no person so arrested shall be detained longer than may be necessary for bringing him before a Magistrate, except under the order of a Magistrate for his detention.

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<sup>1</sup> For notification under this section in Madras, see Fort St. George Gazette, 1903, Pt. I, p. 19.

ACT No. V OF 1897.<sup>1</sup>

[25th February, 1897.]

An Act \* \* \* \*<sup>2</sup> to amend and facilitate the  
citation of certain \*<sup>2</sup> enactments.

\* \* \* \* \*

\*<sup>3</sup> Whereas it is \*<sup>3</sup> expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act ;

And whereas it is also expedient to facilitate the citation of the enactments specified in the third schedule to this Act ;

It is hereby enacted as follows : —

Title and  
commence-  
ment.

1. (1) This Act, may be called the \* \*<sup>4</sup> Amending Act, 1897 ; and

(2) It shall come into force at once.

Enactments  
amended.

2. (1) [ *Enactments repealed.* ] *Rep. Act I of 1903.*

(2) The enactments specified in the second schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof.

3. [ *Savings.* ] *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

Citation of  
certain enact-  
ments.

4. Each of the enactments described in the first three columns of the third schedule may without prejudice to any other mode of citation be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof.

*The First Schedule. [ Rep. Act I of 1903. ]*

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1897, Pt. V, p. 50, and for Proceedings in Council, see *ibid.*, 1897, pp. 41 and 44.

<sup>2</sup> In the Title the words "to repeal certain obsolete enactments and" and the word "other" were repealed by the Repealing and Amending Act, 1903 (1 of 1903).

<sup>3</sup> In the Preamble the repealing portion and the words "and" and "also" were repealed by the Repealing and Amending Act, 1903 (1 of 1903).

<sup>4</sup> The words "Repealing and" were repealed by the Repealing and Amending Act, 1903 (1 of 1903).

## THE SECOND SCHEDULE.

1	2		4
Year.	No.	Short title or subject.	Amendment.
1*	*	* *	* * *

*Part IV.—Regulations of the Bengal Code.*

1806	XI	Passage of Troops	In section 4, clause third, <i>for</i> Governor General in Council, <i>in each place in which those words occur, read</i> Local Government.
1812	XI	Removal of Foreign Immigrants.	In section 5, clause second, <i>for</i> to the Nizamat Adalat, who will recommend to the Governor General in Council such abbreviation of the prescribed punishment as they may judge proper, <i>read</i> to the Local Government, and the Local Government shall pass such orders thereon as it may think fit. <i>For</i> Governor General in Council, <i>wherever those words occur, read</i> Local Government.
1823	VII	Loans to covenanted officers.	In section 3, <i>for the words from</i> All Judges to powers of such Collector, <i>read</i> All Commissioners, District and Sessions Judges, Deputy Commissioners and Assistant Commissioners being members of the Indian Civil Service.  In section 6, and also in section 8, <i>for</i> Governor General in Council <i>read</i> Local Government.  In section 8, <i>for</i> Government, <i>read</i> the Local Government.

## THE THIRD SCHEDULE.

1	2	3	4
Year.	No.	Subject.	Short title.

*Part I.—Local Acts of the Governor General in Council in force in Assam.*

1850	XXV	For the forfeiture to Government of deposits made on incomplete sales of land under Regulation VIII, 1819.	The Forfeited Deposits Act, 1850.
„	XXXIII	For amending the forms necessary for the sale of patni tenures in Bengal.	The Sale of Patni Tenures Act, 1850..

Unrepeated portion of Parts I to III of the second schedule have been omitted, as they affect Acts of the Governor General in Council, Acts of the Lieutenant-Governor of Bengal and Regulations under the Government of India Act, 1870 (33 Vict., c.3) in force in Assam alone; the parts are printed *in extenso* in the E. B. and A. Code, Vol. I.

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
<i>Part I.—Local Acts of the Governor General in Council in force in Assam—contd.</i>			
1853	VI	Relating to summary suits for arrears of rent, to sales of patni taluqs and other saleable tenures, and to sales of land in satisfaction of summary decrees for rent.	The Rent Recovery Act, 1853.
„	XIX	To amend the law of evidence in the Civil Courts of the East India Company in the Bengal Presidency.	The Recusant Witnesses Act, 1853.
1856	XII	To amend the law respecting the employment of Amins by the Civil Courts in the Presidency of Fort William.	The Civil Courts Amins Act, 1856.
1867	III	To provide for the punishment of public gambling and the keeping of common gaming-houses in the North-Western Provinces of the Presidency of Fort William, and in the Punjab, Oudh, the Central Provinces and British Burma.	The Public Gambling Act, 1867.
1871	XIX	To provide for the appointment of Sessions Judges in Bengal and the North-Western Provinces.	The Bengal Sessions Courts Act, 1871.
1886	III	To amend the Northern India Ferries Act, 1878.	The Northern India Ferries Act Amendment Act, 1878.
1892	IV	To amend the Bengal Court of Wards Act, 1879 [Act IX (B. C.) of 1879].	The Court of Wards Act (Bengal) Amendment Act, 1892.
1*	*	*	*
2*	*	*	*

<sup>1</sup>. The entries here omitted affect Acts in force only in Assam; such as are unrepealed are reproduced in the E. B. and A. Code, Vol. I.

<sup>2</sup>. The entry here omitted relates to the Assam Frontier Tracts Regulation, 1884 (III of 1884), which only affects Assam, see E. B. and A. Code, Vol. I.

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.

*Part III.—Regulations of the Bengal Code in force in Assam.*

1793	I	For enacting into a Regulation certain Articles of a Proclamation bearing date the 22nd March 1793.	The Bengal Permanent Settlement Regulation, 1793.
"	II	For abolishing the Courts of Mal Adalat or Revenue Courts and transferring the trial of the suits which were cognizable in those Courts to the Courts of Dewani Adalat; and prescribing Rules for the conduct of the Board of Revenue and the Collectors.	The Bengal Land-revenue Regulation, 1793.
"	VIII	For re-enacting with modifications and amendments, the rules for the Decennial Settlement of the public revenue payable from the lands of zamindars, independent taluqdars and other actual proprietors of land, in Bengal, Behar, and Orissa, passed for those provinces respectively on the 18th September, 1789; the 25th November, 1789; and the 10th February, 1790, and subsequent dates.	The Bengal Decennial Settlement Regulation, 1793.
	XI	For removing certain restrictions to the operation of the Hindu and Muhamadan laws with regard to the inheritance of landed property subject to the payment of revenue to Government.	The Bengal Inheritance Regulation, 1793.
"	XXXVIII	For re-enacting, with modifications, such part of the rule passed on the 27th June 1787, as prohibits Covenanted Civil Servants of the Company employed in the administration of	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793.

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
<i>Part III.—Regulations of the Bengal Code in force in Assam—contd.</i>			
1793	XXXVIII — <i>contd.</i>	justice or the collection of the public revenue lending money to zamindars, independent taluqdars or other actual proprietors of land, or dependent taluqdars or farmers of landholding farms immediately of Government, or the under-farmers or raiyats of the several descriptions of proprietors and farmers of land above mentioned, or their respective sureties.	
1799	V	To limit the interference of the Zila Court of Diwani Adalat in the execution of wills and administration to the estates of persons dying intestate.	The Bengal Wills and Intestacy Regulation, 1799.
1800	X	For preventing the division of landed estates in the Jangal Mahals of the Zila of Midnapore and other Districts.	The Bengal Inheritance Regulation, 1800.
1804	X	For declaring the powers of the Governor-General in Council to provide for the immediate punishment of certain offences against the State by the sentence of Courts-martial.	The Bengal State Offences Regulation, 1804.
1806	XI	For facilitating the progress of detachments of troops through the Company's territories, for affording any requisite assistance to persons travelling through those territories.	The Bengal Troops Transport and Travellers Assistance Regulation, 1806.
1812	XI	To empower the Governor General in Council to order the removal of emigrants from foreign	The Bengal Foreign Immigrants Regulation, 1812.

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
<i>Part III.—Regulations of the Bengal Code in force in Assam—contd.</i>			
1812	XI— <i>contd.</i>	countries, and their descendants, from any place in the vicinity of the frontier of the State from which they may have emigrated; and, in certain cases, to place and detain any such persons in safe custody, and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts.	
1818	III	For the confinement of State Prisoners.	The Bengal State Prisoners Regulation, 1818.
1819	VIII	To declare the validity of certain tenures, and to define the relative rights of zamindars and patni taluqdars; also to establish a process for the sale of such taluqs in satisfaction of the zamindar's demand of rent.	The Bengal Patni Taluqs Regulation, 1819.
1820	I	For providing that all sales of certain taluqs made answerable by sale for arrears by the zamindar's rent shall be conducted in the mode provided by Regulation VIII, 1819, for the sales therein described.	The Bengal Patni Taluqs Regulation, 1820.
1823	VII	For prohibiting loans by Covenanted Civil Servants from persons subject to their official authority and influence.	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823.
1825	IV	For rendering more effectual the rules in force relative to supplies and preparations for troops proceeding through the British territories.	The Bengal Troops Transport Regulation, 1825.



THE THIRD SCHEDULE—*concl'd.*

1	2		
Year.	No.	Subject.	Short title.
<i>Part III.—Regulations of the Bengal Code in force in Assam—concl'd.</i>			
1825	XI	For declaring the rules to be observed in determining claims to lands gained by alluvion, or by dereliction of a river or the sea.	The Bengal Alluvion and Diluvion Regulation, 1825.
1827	III	For modifying and amending the rules in force relative to the law officers and ministerial native officers of the Courts of Judicature, who may be guilty of corruption or extortion.	The Bengal Corruption and Extortion Regulation, 1827.
"	V	For modifying the rules at present in force for the management of estates under attachments by orders of the Courts of Justice in certain cases.	The Bengal Attached Estates Management Regulation, 1827.
1829	XVII	For declaring the practice of Sati or of burning or burying alive the widows of Hindus illegal and punishable by the Criminal Courts.	The Bengal Sati Regulation, 1829.

ACT No. VI OF 1897.<sup>1</sup>

[4th March, 1897.]

## An Act to amend the Negotiable Instruments Act, 1881.

WHEREAS it is expedient to amend the <sup>2</sup> Negotiable Instruments Act, **XXVI** of 1881 ; It is hereby enacted as follows :—

1. (1) This Act may be called the Negotiable Instruments Act Amendment Act, 1897 ; and

Short title  
and com-  
mencement.

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1896, Pt. V, p. 36 ; for Report of the Select Committee, *see* *ibid*, 1897, Pt. V, p. 51 and for Proceedings in Council, *see* *ibid*, 1896, Pt. VI, pp. 79 and 250, and *ibid*, 1897, pp. 39 and 54.

As being part of the Negotiable Instruments Act, 1881 (26 of 1881), the Act is in force in the whole of Upper Burma (except the Shan States), *see* the Burma Laws Act, 1898 (18 of 1898), Bur. Code.

<sup>2</sup> Genl. Acts, Vol. III.

(2) It shall come into force at once.

2. To section 72 of the said Act the following words shall be prefixed, namely, " Subject to the provisions of section 84".

Amendment  
of section 72,  
Act XXVI  
of 1881.

3. For section 84 of the said Act the following section shall be substituted, namely :—

Substitution  
of new sec-  
tion for sec-  
tion 84, Act  
XXVI of  
1881.

" 84. (1) Where a cheque is] not presented for payment within a reasonable time of its issue, and the drawer or person on whose account it is drawn had the right, at the time when presentment ought to have been made, as between himself and the banker, to have the cheque paid and suffers actual damage, through the delay, he] is discharged to the extent of such damage, that is to say, to the extent to which such drawer or person is a creditor of the banker to a larger amount than he would have been if such cheque had been paid.

When cheque  
not duly  
presented  
and drawer  
damaged  
thereby.

(2) In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade and of bankers, and the facts of the particular case.

(3) The holder of the cheque as to which such drawer or person is so discharged shall be a creditor, in lieu of such drawer or person, of such banker to the extent of such discharge and entitled to recover the amount from him."

*" Illustrations.*

(a) A draws a cheque for Rs. 1,000, and, when the cheque ought to be presented, has funds at the bank to meet it. The bank fails before the cheque is presented. The drawer is discharged, but the holder can prove against the bank for the amount of the cheque.

(b) A draws a cheque at Umballa on a bank in Calcutta. The bank fails before the cheque could be presented in ordinary course. A is not discharged for he has not suffered actual damage through any delay in presenting the cheque."

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THE REFORMATORY SCHOOLS ACT, 1897.

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ACT No. VIII OF 1897.<sup>1</sup>

[11th March, 1897.]

An Act to amend the law relating to Reformatory Schools and to make further provision for dealing with youthful offenders.

WHEREAS it is expedient to amend the law relating to Reformatory Schools and to make further provision for dealing with youthful offenders ; It is hereby enacted as follows :—

## I.—Preliminary.

1. (1) This Act may be called the Reformatory Schools Act, 1897 ; and

(2) It shall come into force at once.

(3) This section and section 2 shall extend to the whole of British India.

The other sections shall extend in the first instance to the whole of British India except the territories for the time being administered by the Lieutenant-Governor of the <sup>2</sup> Punjab and the Chief Commissioner of <sup>2</sup> Coorg, but either

Title, commencement and extent.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1896, Pt. V, p. 187 ; for Report of the Select Committee, see *ibid.*, 1897, Pt. VI, p. 55, and for Proceedings in Council, see *ibid.*, 1896, Pt. V, pp. 222 and 251 ; and *ibid.*, 1896, Pt. VI, pp. 44 and 68.

The Act has been declared in force in Upper Burma (except the Shan States), see the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

It has also been declared in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation (8 of 1872) as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), Ben. Code, Vol. I, and in the Angul District under s. 5 of the Angul District Regulation, 1894 (1 of 1894), see Calcutta Gazette, 1899, Pt. I, p. 1064.

<sup>2</sup> Sections 3 to 32 (both inclusive) have been extended to the Punjab from 1st October 1903, see Punjab Gazette, Extraordinary, dated 2nd October, 1903, and to Coorg from 1st May, 1898, see Coorg Dist. Gazette, 1898, Pt. I, p. 26.

## (I.—Preliminary. II.—Reformatory Schools.)

of the said Local Governments may at any time, by notification in the local official Gazette, extend these sections to their territories from such day as may be fixed in any such notification.

Repeal of Act.

2. (1) The Reformatory Schools Act, 1876, is hereby repealed.

V of 1876.

(2) But all proceedings taken, orders passed, officers appointed or authorised and rules made under the said Act shall, as far as may be deemed to have been respectively passed, appointed or authorised and made under this Act.

(3) Any enactment or document referring to the said Act shall, as far as may be, be construed to refer to this Act, or to the corresponding portions thereof.

Section 399 of Act X of 1882 repealed on date fixed by a notification under section 1, sub-section (3).

3. From the date fixed by any notification issued under section 1, sub-section (3), section 399 of the <sup>1</sup> Code of Criminal Procedure, 1882, shall be repealed in the province to which the notification relates. X of 1882.

4. In this Act, unless there is anything repugnant in the subject or context,—

(a) “youthful offender” means any boy who has been convicted of any offence punishable with transportation or imprisonment and who, at the time of such conviction, was under the age of fifteen years :

(b) “Inspector General” includes any <sup>2</sup> officer appointed by the Local Government to perform all or any of the duties imposed by this Act on the Inspector General : and

(c) “District Magistrate” shall include a Chief Presidency Magistrate.

## II.—Reformatory Schools.

Power to establish and discontinue Reformatory Schools.

5. With the previous sanction of the Governor General in Council, the Local Government may—

(a) <sup>3</sup> establish and maintain Reformatory Schools at such places as it may think fit ;

(b) use as Reformatory Schools schools kept by persons willing to act in conformity with such rules, consistent with this Act, as the Local Government may prescribe in this behalf ;

<sup>1</sup> Since entirely repealed by the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

<sup>2</sup> For notification directing that the Director of Public Instruction shall perform all duties as regards the Yeraoda Reformatory School imposed on the Inspector General, see Bom. Government Gazette, 1900, Pt. I, p. 849.

For notification appointing the Director of Public Instruction to be Inspector General in Burma, see Bur. Gazette, 1900, Pt. I, p. 264.

<sup>3</sup> For notification establishing a Reformatory School in the United Provs., see P. Gazette, 1902, Pt. I, p. 487, and in Madras, see Mad. R. & O., Vol. I.

## (II.—Reformatory Schools.)

- (c) direct that any school so established or used shall <sup>1</sup> cease to exist as a Reformatory School or to be used as such.

6. Every school so established or used must provide—

Requisites of schools.

- (a) sufficient means of separating the inmates at night ;  
 (b) proper sanitary arrangements, water-supply, food, clothing and bedding for the youthful offenders detained therein ;  
 (c) the means of giving such youthful offenders industrial training ;  
 (d) an infirmary or proper place for the reception of such youthful offenders when sick.

7. (1) Every school intended to be established or used as a Reformatory School shall, before being used as such, be inspected by the Inspector General, and if he finds that the requirements of section 6 have been complied with, and that, in his opinion, such school is fitted for the reception of such youthful offenders as may be sent there under this Act, he shall certify to that effect and <sup>2</sup> such certificate shall be published in the local official Gazette, together with an order of the Local Government establishing the school as a Reformatory School or directing that it shall be used as such, and the school shall thereupon be deemed to be a Reformatory School.

Inspection of Reformatory Schools.

(2) Every such school shall, from time to time, and at least once in every year, be visited by the said Inspector General, who shall send to the Local Government a report on the condition of the school in such form as the Local Government may prescribe.

8. (1) Whenever any youthful offender is sentenced to transportation or imprisonment, and is, in the judgment of the Court by which he is sentenced, a proper person to be an inmate of a Reformatory School, the Court may, subject to any rules made by the Local Government, direct that, instead of undergoing his sentence, he shall be sent to such a school, and be there detained for a period which shall be not less than three or more than seven years.

Power of Courts to direct youthful offenders to be sent to Reformatory Schools.

(2) The powers so conferred on the Court by this section shall be exercised only by (a) the High Court, (b) a Court of Session, (c) a District Magistrate, and (d) any <sup>3</sup> Magistrate specially empowered by the Local Government in this behalf, and may be exercised by such Courts whether the case comes before them originally or on appeal.

<sup>1</sup> For notification under this clause for Burma, see Bur. Gazette, 1897, Pt. I, p. 60, and for the United Provs., see U. P. Gazette, 1902, Pt. I, p. 524.

<sup>2</sup> For instance of the publication of such a certificate, see Cent. Provs. R. and O.

<sup>3</sup> For instance of a notification empowering certain Magistrates to exercise these powers, see U. P. R. and O., Vol. I.

## (II.—Reformatory Schools.)

(3) The Local Government may make rules for—

<sup>1</sup>(a) defining what youthful offenders should be sent to Reformatory Schools, having regard to the nature of their offences or other considerations, and

(b) regulating the periods for which youthful offenders may be sent to such schools according to their ages or other considerations.<sup>2</sup>

Procedure where Magistrate is not empowered to pass an order under section 8.

9. (1) When any Magistrate not empowered to pass an order under the last foregoing section is of opinion that a youthful offender convicted by him is a proper person to be an inmate of a Reformatory School, he may, without passing sentence, record such opinion and submit his proceedings and forward the youthful offender to the District Magistrate to whom he is subordinate.

(2) The Magistrate to whom the proceedings are so submitted may make such further inquiry (if any) as he may think fit and pass such sentence and order for the detention in a Reformatory School of the youthful offender, or otherwise, as he might have passed if such youthful offender had been originally tried by him.

Power of Magistrates to direct boys under fifteen sentenced to imprisonment to be sent to Reformatory Schools.

10. The officer in charge of a prison in which a youthful offender is confined, in execution of a sentence of imprisonment, may bring him, if he has not then attained the age of fifteen years, before the District Magistrate within whose jurisdiction such prison is situate; and such Magistrate may, if such youthful offender appears to be a proper person to be an inmate of a Reformatory School, direct that, instead of undergoing the residue of his sentence, he shall be sent to a Reformatory School, and there detained for a period which shall be subject to the same limitations as are prescribed by or under section 8, with reference to the period of detention thereby authorised.

Preliminary inquiry and finding as to age of youthful offender.

11. (1) Before directing any youthful offender to be sent to a Reformatory School under section 8, section 9, or section 10, the Court or Magistrate shall inquire into the question of his age and, after taking such evidence (if

<sup>1</sup> For rules made under this clause by the Punjab Government, see Punjab Gazette Extraordinary, dated 2nd October, 1903, p. 3.

<sup>2</sup> For rules regulating the period for which youthful offenders may be sent to Reformatories in :—

- (1) Ajmer, see Gazette of India, 1903, Pt. II, p. 821.
- (2) Assam, see Assam Supplement to Assam R. and O.
- (3) Bengal (which then included Districts transferred to Eastern Bengal and Assam), see Calcutta Gazette, 1899, Pt. I, p. 216.
- (4) Bombay, see Bom. R. and O., Vol. I.
- (5) Burma, see Bur. Gazette, 1897, Pt. I, p. 60.
- (6) Central Provinces, see Cent. Prov. R. and O.
- (7) Coorg, see Coorg List of R. and O.
- (8) Madras, see Mad. R. and O., Vol. I.
- (9) Punjab, see Punjab Gazette Extraordinary, dated 2nd October, 1903, p. 4.
- (10) United Provinces of Agra and Oudh, see U. P. List of Local R. and O., Vol. I.

## (II.—Reformatory Schools.)

any) as may be deemed necessary, shall record a finding thereon, stating his age as nearly as may be.

(2) A similar inquiry shall be made and finding recorded by every Magistrate not empowered to pass an order under section 8 before submitting his proceedings and forwarding the youthful offender to the District Magistrate as required by section 9, sub-section (1).

12. Every youthful offender directed by a Court or Magistrate to be sent to a Reformatory School shall be sent to such Reformatory School as the Local Government may, by general or <sup>1</sup> special order, appoint for the reception of youthful offenders so dealt with by such Court or Magistrate :

Government to determine Reformatory School to which such offenders shall be sent.

Provided that, if accommodation in a Reformatory School is not immediately available for such youthful offender, he may be detained in the juvenile ward or such other suitable part of a prison as the Local Government may direct—

(a) until he can be sent to a Reformatory School, or

(b) until the term of his original sentence expires,

whichever event may first happen. Should the term of his original sentence first expire, he shall thereupon be released, but should he be sent to a Reformatory School, then the period of detention previously undergone shall be treated as detention in a Reformatory School.

13. (1) If at any time after a youthful offender has been sent to a Reformatory School it appears to the Committee of Visitors or Board of Management, as the case may be, that the age of such youthful offender has been understated in the order for detention, and that he will attain the age of eighteen years before the expiration of the period of which he has been ordered to be detained, they shall report the case for the orders of the Local Government.

Persons found to be over eighteen years not to be detained in Reformatory Schools.

(2) No person shall be detained in a Reformatory School after he has been found by the Local Government to have attained the age of eighteen years.

14. The Local Government may at any time order any youthful offender—

(a) to be discharged from a Reformatory School ;

(b) to be removed from one Reformatory School to another such school situate within the territories subject to such Government : Provided that the whole period of his detention in a Reformatory School shall not be increased by such removal.

Discharge or removal by order of Government.

<sup>1</sup> For instance of such an order, see Bur. Gazette, 1897, Pt. I, p. 301, and U. P. List of Local R. & O., Vol. I.



## (III.—Management of Reformatory Schools.)

at any time and from time to time until the expiration of the period for which the youthful offender has been directed to be detained, be renewed for three months at a time.

19. The license shall be cancelled at the desire of the employer named in the license. Cancellation of license.

20. If during the term of the license the employer named therein dies, or ceases from business or to employ labour, or the period for which the youthful offender has been directed to be detained in the Reformatory School expires, the license shall thereupon cease and determine. Determination of license.

21. If it appears to the Superintendent that the employer has ill-treated the youthful offender, or has not adequately provided for his lodging and maintenance, the Superintendent may cancel the license. Cancellation of license in case of ill-treatment.

22. (1) The Superintendent of a Reformatory School shall be deemed to be the guardian of every youthful offender detained in such school, within the meaning of <sup>1</sup> Act No. XIX of 1850 (*concerning the binding of apprentices*). Superintendent to be deemed guardian of youthful offenders.

(2) If it appears to the Superintendent that any youthful offender licensed under section 18 has behaved well during one or more periods of his license, the Superintendent may, with the sanction of the Committee, apprentice him under the provisions of the said Act, and on such apprenticeship the right to detain such youthful offender in a Reformatory School shall cease, and the unexpired term (if any) of his sentence shall be cancelled. Power to apprentice youthful offender.

23. (1) Every Committee of Visitors appointed under section 17 for a Reformatory School shall, at least once in every month— Duties of Committee of Visitors.

(a) visit the school, to hear complaints and see that the requirements of section 6 have been complied with, and that the management of the school is proper in all respects ;

(b) examine the punishment-book ;

(c) bring any special cases to the notice of the Inspector-General ; and

(d) see that no person is illegally detained in the school.

(2) If any member of a Committee of Visitors so appointed fails or neglects, during a period of six consecutive months, to visit the school and assist in the discharge of the duties aforesaid, he shall cease to be a member of such Committee.

24. If, in exercise of the power conferred by section 17, the Local Government appoints a Board of Management for any Reformatory School, such Board shall have the powers and perform the functions of the Superintendent powers Board of Management.

<sup>1</sup> Genl. Acts, Vol. I.

(III.—*Management of Reformatory Schools.*)

under sections 18 to 22, both inclusive ; and the license mentioned in section 18 may be under the hand of their chairman ; and they shall be deemed to be the guardians of the youthful offenders detained in such school.

Power to  
appoint  
Trustees or  
other Man-  
agers of a  
school to be  
a Board of  
Management.

25. The Local Government may declare any body of Trustees or Managers of a school, who are willing to act in conformity with the rules referred to in section 5, clause (b), to be a Board of Management under this Act, and thereupon such body or Managers shall have all the powers and perform all the functions of such Board of Management.

Power of  
Board to  
make rules.

26. (1) With the previous sanction of the Local Government, every Board of Management of a Reformatory School may from time to time make rules consistent with this Act—

- (i) to prescribe the articles which are to be deemed to be “ prohibited articles ”; and
- (ii) to regulate—
  - (a) the conduct of business of the Board ;
  - (b) <sup>1</sup> the management of the school ;
  - (c) the education and industrial training of youthful offenders ;
  - (d) visits to, and communication with, youthful offenders ;
  - (e) the terms and conditions under which any articles declared by the Board to be “ prohibited articles ” may be introduced into or removed out of the school ;
  - (f) the manner in which such articles are to be removed when introduced without due authority ;
  - (g) the conditions and limitations under which such articles may be supplied outside the school to any youthful offender under order of detention therein ;
  - (h) the conditions on which the possession by any such youthful offender of such articles may be sanctioned ;
  - (i) the penalties to be imposed for the supply or possession of such articles when supplied or possessed without due authority ;
  - (j) the punishment of offences committed by youthful offenders ; and

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<sup>1</sup> For rules in force in—

- (1) Bengal, for the management of the Reformatories at Alipur and Hazaribagh, *see* *Reg. Stat. R. and O.*, Vol. II.
- (2) Bombay, for the management of the Reformatory at Yerrowda, *see* *Bom. R. and O.*, Vol. I.
- (3) Burma, for the management of the Reformatory at Insein, *see* *Bur. R. M.*, Vol. I.
- (4) Madras, for the management of the Reformatory at Chingleput, *see* *Mad. R. and O.*, Vol. I.
- (5) United Provinces of Agra and Oudh (for Chunar), *see* *U. P. List of Local R. and O.*, Vol. I.

## (IV.—Offences in relation to Reformatory Schools. )

- (k) the granting of licenses for the employment of youthful offenders.

(2) In the absence of a Board of Management the Local Government may make <sup>1</sup> rules consistent with this Act to regulate for any Reformatory School the matters mentioned in any clause of sub-section (1), other than clause (ii)-(a), and also the mode in which the Committee of Visitors shall conduct their business.

## IV.—Offences in relation to Reformatory Schools.

27. Whoever, contrary to any rule made under section 26, introduces or removes or attempts by any means whatever to introduce or remove into or from any Reformatory School, or supplies or attempts to supply outside the limits of any Reformatory School to any youthful offender under order of detention therein, any prohibited article,

Penalty for introduction or removal or supply of prohibited articles and communication with youthful offenders.

and every officer or person in charge of a Reformatory School who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from any Reformatory School, to be possessed by any youthful offender detained therein, or to be supplied to any such youthful offender outside its limits,

and whoever, contrary to any such rule, communicates or attempts to communicate with any such youthful offender,

and whoever abets any offence made punishable under this section,

shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

28. Whoever abets an escape, or an attempt to escape, on the part of a youthful offender from a Reformatory School, or from the employer of such youthful offender, shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding two hundred rupees, or with both.

Penalty for abetting escape of youthful offender.

29. A Police-officer may, without orders from a Magistrate and without a warrant, arrest any youthful offender sent to a Reformatory School under this Act, who has escaped from such school or from his employer, and take him back to such school or to his employer.

Arrest of escaped youthful offender.

<sup>1</sup> For rules made under this sub-section for—

(1) Bombay, *see* Bom. Govt. Gazette, 1903, Pt. I, p. 1305.

(2) Punjab, *see* Punj. Gazette, Extraordinary, dated 2nd October, 1903, pp. 4 and 14.

(3) United Provinces of Agra and Oudh, *see* U. P. Gazette, 1902, Pt. I, p. 524, *ibid*, 1904, Pt. I, p. 217.

(V.—Miscellaneous.)

V.—Miscellaneous.

30. [*Application of Act 15 of 1869 to youthful offenders detained in Reformatory Schools.*] *Rep. Act. 3 of 1908.*

Power to deal in other ways with youthful offenders, including girls.

31. (1) Notwithstanding anything contained in this Act or in any other enactment for the time being in force, any Court may, if it shall think fit, instead of sentencing any youthful offender to transportation or imprisonment or directing him to be detained in a Reformatory School, order him to be—

(a) discharged after due admonition, or

(b) delivered to his parent or to his guardian or nearest adult relative, or such parent, guardian or relative executing a bond, with or without sureties, as the Court may require, to be responsible for the good behaviour of the youthful offender for any period not exceeding twelve months.

(2) For the purposes of this section the term “youthful offender” shall include a girl.

(3) The powers conferred on the Court by this section shall be exercised only by Courts empowered by or under section 8.

(4) When any youthful offender is convicted by a Court not empowered to act under this section and the Court is of opinion that the powers conferred by this section should be exercised in respect of such youthful offender, it may record such opinion and submit the proceedings and forward the youthful offender to the District Magistrate to whom such Court is subordinate.

(5) The District Magistrate to whom the proceedings are so submitted may thereupon make such order or pass such sentence as he might have made or passed if the case had originally been tried by him.

Procedure when youthful offender under detention in a Reformatory School is again convicted and sentenced.

32. When a youthful offender during his period of detention in a Reformatory School is again convicted by a Criminal Court, the sentence of such Court shall commence at once, notwithstanding anything to the contrary in section 397 of the <sup>1</sup> Code of Criminal Procedure, 1882, but the Court shall forthwith report the matter to the Local Government, which shall have power to deal with the matter in any way in which it thinks fit. X of 1882.

<sup>1</sup> See now the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

ACT No. IX OF 1897.<sup>1</sup>

[11th March, 1897.]

## An Act to amend the law relating to Government and other Provident Funds.

WHEREAS it is expedient to amend the law relating to Government and other Provident Funds; It is hereby enacted as follows :—

1. (1) This Act may be called the Provident Funds Act, 1897.

(2) It extends to the whole of British India, including <sup>2</sup> \* \* \* British Baluchistan; and

Title, extent  
and com-  
mencement.

(3) It shall come into force at once.

2. In this Act—

Definitions.

(1) "Provident Fund" means a fund in which the subscriptions or deposits of any class or classes of employees are received and held on their individual accounts, and includes any contributions, credited in respect of, and any interest accruing on, such subscriptions or deposits under the rules of the Fund :

(2) "Government Provident Fund" means a Provident Fund constituted by the authority of the Government for any class or classes of its employees.

(3) "Railway Provident Fund" means a Provident Fund constituted by the authority of the Government of India, or of any company which administers a railway or tramway in British India, either under a special Act of Parliament or under contract with the Secretary of State in Council or the Government of India, for any class or classes of the employees on, or in connection with, such railway or tramway : and

(4) "Compulsory deposit" means a subscription or deposit which is not repayable on the demand, or at the option, of the subscriber or depositor, and includes any contribution which may have been credited in respect of, and any interest or increment which may have accrued on, such subscription or deposit under the rules of the Fund.

3. (1) When a subscriber to, or depositor in, any Government or Railway Provident Fund dies, and the sum standing to his credit in the books of the

Payment  
from Govern-  
ment or Rail-  
way Provi-

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1896, Pt. V, p. 254; for Report of the Select Committee, see *ibid*, 1897, Pt. V, p. 74, and for Proceedings in Council, see *ibid*, Pt. VI, p. 241, and *ibid*, 1897, Pt. VI, pp. 2, 56 and 74.

<sup>2</sup> The words "Upper Burma and" were repealed and the Act at the same time declared to be in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

dent Fund on  
death of sub-  
scriber or  
depositor.

Fund does not exceed two thousand rupees, the officer or person whose duty it is to make payment of such sum may pay it as follows:—

(a) he may pay it to any person entitled to receive it according to the rules of the Fund or, in the absence of any rule of the Fund to the contrary, to any person nominated in writing by the deceased subscriber or depositor to receive it;

(b) in any case, not hereinbefore provided for, he may pay it to any person appearing to him to be entitled to receive it.

(2) The provisions of sub-section (1) shall apply to any such sum which at the commencement of this Act stands to the credit of any subscriber or depositor already deceased.

(3) Nothing in this section shall affect the validity of the rules of any Fund in so far as such rules may provide for the disposal of sums exceeding two thousand rupees.

Protection  
to deposits  
and other  
sums in cer-  
tain cases.

<sup>1</sup> 4. (1) Compulsory deposits in any Government or Railway Provident Fund shall not be liable to any attachment under any decree or order of a Court of Justice in respect of any debt or liability incurred by a subscriber to, or depositor in, any such Fund, and neither the Official Assignee nor a Receiver appointed under Chapter XX of the <sup>2</sup> Code of Civil Procedure shall be entitled to, or have any claim on any such compulsory deposit. XIV of 1892.

(2) Any sum standing to the credit of any subscriber to, or depositor in any such Fund at the time of his decease and payable under the rules of the Fund or under this Act, to the widow or the children, or partly to the widow and partly to the children, of the subscriber or depositor, or to such person as may be authorised by law to receive payment on her or their behalf, shall vest in the widow or the children, or partly in the widow and partly in the children as the case may be, free from any debt or other liability incurred by the deceased, or incurred by the widow or by the children, or by any one or more of them, before the death of such subscriber or depositor.

(3) Nothing in sub-section (2) shall apply in the case of any such subscriber or depositor as aforesaid dying before the thirteenth day of March 1903.

Protection  
for anything  
done in good  
faith under  
this Act.

5. No suit or other legal proceeding shall lie against any person in respect of anything done or in good faith intended to be done in pursuance of the provisions of this Act.

Power to  
extend Act

6. The Governor General in Council may, in his discretion, by notification

<sup>1</sup> This section was substituted for the original section by the Provident Funds (Amendment) Act, 1903 (4 of 1903), s. 2, Genl. Acts, Vol. V.

<sup>2</sup> See now the Provincial Insolvency Act, 1907 (3 of 1907), Genl. Acts, Vol. VI.

in the official Gazette, extend the provisions of this Act to any <sup>1</sup> Provident Fund established for the benefit of its employees by any local authority within the meaning of the <sup>2</sup> Local Authorities Loan Act, 1879.

X1 of 1879.

7. Nothing in section 3 shall apply to money belonging to the estate of any European officer, non-commissioned officer or soldier dying in Her Majesty's service in India, or of any European who at the time of his death was a deserter from such service.

to other Provident Funds.

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<sup>1</sup> The provisions of the Act have, under this power, been extended to the Provident Fund of the Bombay Port Trust and to that established by the Calcutta Corporation, the Municipal Committee of Rangoon and to all Provident Funds established by Municipal Councils under the Madras District Municipalities Act, 1884 (4 of 1884)—see Gazette of India, 1898, Pt. I, p. 68, *ibid*, 1902, Pt. I, p. 509, and *ibid*, Pt. I, p. 1086 and *ibid*, 1907, Pt. I, p. 218, respectively.

<sup>2</sup> Genl. Acts, Vol. III.

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## (Preliminary. General Definitions.)

ACT No. X of 1897.<sup>1</sup>

[11th March, 1897.]

An Act to consolidate and extend the General Clauses Acts,  
1868 and 1887.of 1868.  
of 1887.

WHEREAS it is expedient to consolidate and extend the General Clauses Acts, 1868 and 1887; It is hereby enacted as follows:—

*Preliminary.*

1. (1) This Act may be called the General Clauses Act, 1897; and
- (2) It shall come into force at once.
2. [Repeal.] *Rep. by the Repealing and Amending Act (1 of 1903).*

Short title  
and com-  
mencement.*General Definitions.*

3. In this Act, and in all Acts of the Governor General in Council and Regulations made after the commencement of this Act, unless there is anything repugnant in the subject or context,—

Definitions.

LV of 1860.

- (1) “abet,” with its grammatical variations and cognate expressions, shall have the same meaning as in the <sup>2</sup> Indian Penal Code: “Abet.”
- (2) <sup>2</sup> “act,” used with reference to an offence or a civil wrong, shall include a series of acts, and words which refer to acts done extend also to illegal omissions: “Act.”
- (3) <sup>3</sup> “affidavit” shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing: “Affidavit.”

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1897, Pt. V, p. 38; for Report of the Select Committee, *see* *ibid*, p. 77, and for Proceedings in Council, *see* *ibid*, Pt. VI, pp. 35, 40, 56 and 76.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), *see* the Fifth Schedule, Bur. Code; in the Santhal Parganas by the Santhal Parganas Settlement Regn., 1872 (3 of 1872), s. 3, as amended by the Santhal Parganas Justice and Laws Regn., 1899 (3 of 1899), s. 3; Ben. Code, Vol. I, in the Chittagong Hill Tracts by the Chittagong Hill Tracts Regn., 1900 (1 of 1900), E. B. and A. Code, Vol. I, and in the Angul District, under s. 5 of the Angul District Regn., 1894 (1 of 1894), *see* Calcutta Gazette, 1899, Pt. I, p. 1064.

<sup>2</sup> Genl. Acts, Vol. I.

<sup>3</sup> *Cf.* the Indian Penal Code (Act 45 of 1860), Genl. Acts, Vol. I, and the Madras General Clauses Act, 1891 (Mad. Act 3 of 1891), Mad. Code, Vol. II.

<sup>4</sup> *Cf.* the definitions of “Oath” and “Swear” in sub-sections (36) and (55), respectively, *infra*. As to affidavits in civil proceedings, *see* Code of Civil Procedure (Act 5 of 1908), First Schedule, Order 19, Genl. Acts, Vol. VI; as to criminal proceedings, *see* Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

## (General Definitions.)

- “ Barrister.” (4) <sup>1</sup> “ barrister ” shall mean a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland :
- “ Bengal Act.” (5) “ Bengal Act ” <sup>2</sup> shall mean an Act made by the Lieutenant-Governor of Bengal in Council under <sup>3</sup> [the Indian Councils Act, 1861 or] the <sup>4</sup> Indian Councils Acts, 1861 and 1892 : 24 & 25 Vict., c. 67 ; 55 & 56 Vict., c. 14.
- “ Bombay Act.” (6) “ Bombay Act ” shall mean an Act made by the Governor of Bombay in Council under <sup>3</sup> [the Indian Councils Act, 1861, or] the <sup>4</sup> Indian Councils Acts, 1861 and 1892 : 24 & 25 Vict., c. 67 ; 55 & 56 Vict., c. 14.
- “ British India.” (7) <sup>5</sup> “ British India ” shall mean all territories and places within Her Majesty’s dominions which are for the time being governed by Her Majesty through the Governor General of India or through any Governor or other officer subordinate to the Governor General of India :
- “ British possession.” (8) <sup>6</sup> “ British possession ” shall mean any part of Her Majesty’s dominions, exclusive of the United Kingdom, and, where parts of those dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one British possession :
- <sup>7</sup>[(8a) “ Burma Act ” shall mean an Act made by the Lieutenant-Governor of Burma in Council under the <sup>4</sup> Indian Councils Acts, 1861 and 1892:]
- “ Chapter.” (9) “ Chapter ” shall mean a Chapter of the Act or Regulation in which the word occurs :
- “ Collector.” (10) <sup>8</sup> “ Collector ” shall mean, in a Presidency-town, the Collector of Calcutta, Madras or Bombay, as the case may be, and elsewhere the chief officer in charge of the revenue-administration of a district :
- “ Colony.” (11) <sup>9</sup> “ Colony ” shall mean any part of Her Majesty’s dominions, exclusive of the British Islands and of British India, and, where

<sup>1</sup> Cf. the Indian High Courts Act, 1861 (24 & 25 Vict., c. 104), s. 19, Coll. Stats. Ind., Vol. I.

<sup>2</sup> The Acts of the recently constituted Council for Eastern Bengal and Assam may by analogy be referred to as Eastern Bengal and Assam Acts.

<sup>3</sup> These words were inserted by the Repealing and Amending Act, 1903 (1 of 1903), s. 3, Genl. Acts, Vol. V.

<sup>4</sup> Coll. Stats. Ind., Vols. I & II. respectively.

<sup>5</sup> Cf. the Interpretation Act, 1889 (52 & 53 Vict., c. 63), s. 18 (4), Coll. Stats. Ind., Vol. II. For definition of “ India ” see *infra*, sub-s. (27).

<sup>6</sup> Cf. *ibid.*, s. 18 (2).

<sup>7</sup> This clause was inserted by the Repealing and Amending Act, 1903 (1 of 1903), s. 3, Genl. Acts, Vol. V.

<sup>8</sup> Cf. the Bombay General Clauses Act, 1904 (Bom. Act I of 1904), s. 3 (12), and the U. P. General Clauses Act, 1887 (U. P. Act 1 of 1887), s. 2 (12), Bom. Code, Vol. IV, and U. P. Code, Vol. II, respectively.

<sup>9</sup> Cf. the Interpretation Act, 1889 (52 & 53 Vict., c. 63), s. 18 (3), Coll. Stats. Ind., Vol. II.

## (General Definitions.)

parts of those dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one colony :

- (12) "commencement,"<sup>1</sup> used with reference to an Act or Regulation, shall mean the day on which the Act or Regulation comes into force : "Commencement."
- (13)<sup>2</sup> "Commissioner" shall mean the chief officer in charge of the revenue-administration of a division : "Commissioner."
- (14)<sup>3</sup> "consular officer" shall include consul-general, consul, vice-consul, consular agent, pro-consul and any person for the time being authorized to perform the duties of consul-general, consul, vice-consul or consular agent : "Consular officer."
- (15)<sup>4</sup> "District Judge" shall mean the Judge of a principal Civil Court of original jurisdiction, but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction : "District Judge."
- (16)<sup>5</sup> "document" shall include any matter written, expressed or described upon any substance by means of letters, figures or marks or by more than one of those means, which is intended to be used, or which may be used, for the purpose of recording that matter : "Document."
- (17) "enactment" shall include a Regulation (as hereinafter defined) and any Regulation of the Bengal, Madras or Bombay Code, and shall also include any provision contained in any Act or in any such Regulation as aforesaid : "Enactment."
- (18) "father," in the case of any one whose personal law permits adoption, shall include an adoptive father : "Father."
- (19)<sup>6</sup> "financial year" shall mean the year commencing on the first day of April : "Financial year."
- (20)<sup>7</sup> a thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not : "Good faith."

<sup>1</sup> For rules determining when any given Act is to come into force, see s. 5, *infra*.

<sup>2</sup> Cf. the U. P. General Clauses Act, 1887 (U. P. Act I of 1887), U. P. Code, Vol. II.

<sup>3</sup> Cf. the Consular Salaries and Fees Act, 1891 (54 & 55 Vict., c. 36), s. 3.

<sup>4</sup> As to definition of "High Court," see sub-section (24), *infra*.

In Lower Burma, the District Court is the Court of the District Judge as defined by this clause, see the Lower Burma Courts Act, 1900 (6 of 1900), s. 25 (c), Bur. Code.

<sup>5</sup> Cf. the Indian Evidence Act, 1872 (1 of 1872), Genl. Acts, Vol. II. As to definition of "written," see sub-section (58), *infra*.

<sup>6</sup> Cf. the Interpretation Act, 1889 (52 & 53 Vict., c. 69), s. 22, Coll. Stats. Ind., Vol. II.

<sup>7</sup> Cf. the Bills of Exchange Act, 1882 (45 & 46 Vict., c. 61), s. 90, and the Sale of Goods Act, 1893 (56 & 57 Vict., c. 71), s. 62. Cf. also s. 52 of the Indian Penal Code (Act 45 of 1860), Genl. Acts, Vol. I.

As to discussion in Council regarding definition of "good faith," see Gazette of India, 1897, Pt. VI, pp. 56 to 62 and 76 to 79.

## (General Definitions.)

- "Government."  
"Government of India."
- (21) <sup>1</sup> "Government" or "the Government" shall include the Local Government as well as the Government of India :
- (22) "Government of India" shall mean the Governor General in Council or, during the absence of the Governor General from his Council, the President in Council, or the Governor General alone as regards the powers which may be lawfully exercised by them or him respectively :
- "Her Majesty" or "the Queen."  
"High Court."
- (23) <sup>2</sup> "Her Majesty" or "the Queen" shall include her successors :
- (24) "High Court," used with reference to civil proceedings, shall mean the highest Civil Court of appeal in the part of British India in which the Act or Regulation containing the expression operates :<sup>3</sup>
- "Immoveable property."
- (25) "immoveable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth :<sup>4</sup>
- "Imprisonment."
- (26) "imprisonment" shall mean imprisonment of either description as defined in the Indian Penal Code :<sup>5</sup>
- "India."
- (27) <sup>6</sup> "India" shall mean British India, together with any territories of any Native Prince or Chief under the suzerainty of Her Majesty exercised through the Governor General of India or through any Governor or other officer subordinate to the Governor General of India :
- "Local authority."
- (28) <sup>7</sup> "local authority" shall mean a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with the control or management of a municipal or local fund :
- "Local Government."
- (29) <sup>8</sup> "Local Government" shall mean the person authorized by law to

XLV of 1860.

<sup>1</sup> As to definition of Local Government, *see* sub-section (29), *infra*.

<sup>2</sup> *Cf.* the Interpretation Act, 1889 (52 & 53 Vict., c. 63), s. 30, as to references to the reigning Sovereign, Coll. Stats. Ind., Vol. II.

As to Her Majesty's title as Empress of India, *see* the Royal Titles Act, 1876 (39 Vict., c. 10).

<sup>3</sup> *Cf.* s. 2 (1) (d) of the Bombay Record of Rights Act, 1903 (4 of 1903) as to Sadar Court in Sindh, Bom. Code, Vol. IV.

<sup>4</sup> As to growing crops and timber so far as they are affected by the Indian Registration Act, 1908 (16 of 1908), *see* s. 2(6) of that Act, Genl. Acts, Vol. VI.

<sup>5</sup> Genl. Acts, Vol. I.

<sup>6</sup> *Cf.* the Interpretation Act, 1889 (52 & 53 Vict., c. 63), s. 18 (5), Coll. Stats. Ind., Vol. II.

<sup>7</sup> *Cf.* the Local Authorities Loan Act, 1879 (11 of 1879), Genl. Acts, Vol. III.

<sup>8</sup> There are at present thirteen Local Governments in British India, namely:—the Governors of Madras and Bombay in Council, the Lieutenant-Governors of Bengal, the U. P. of Agra and Oudh, the Punjab, Burma and Eastern Bengal and Assam; and the Chief Commissioners of the Central Provinces, Ajmer-Merwara, Coorg, British Baluchistan, and of the N. W. Frontier Province and the Chief Commissioner of the Andaman and Nicobar Islands. The Commissioner in Sindh exercises by delegation certain powers of a Local Government, *see* Act 5 of 1863 (Commissioner in Sindh), Bom. Code, Vol. I.

## (General Definitions.)

administer executive government in the part of British India in which the Act or Regulation containing the expression operates, and shall include a Chief Commissioner:

24 & 25 Vict.,  
c. 67; 55 & 56  
Vict., c. 14.

- (30) "Madras Act" shall mean an Act made by the Governor of Fort St. George in Council under <sup>1</sup> [the Indian Councils Act, 1861 or] the <sup>2</sup> Indian Councils Acts, 1861 and 1892: "Madras Act."
- (31) "Magistrate" shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure for the time being in force: <sup>3</sup> "Magistrate."
- (32) <sup>4</sup> "master," used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship: "Master" (of a ship).
- (33) "month" shall mean a month reckoned according to the British calendar: "Month."
- (34) "moveable property" <sup>5</sup> shall mean property of every description, except immoveable property: "Moveable property."
- (35) <sup>6</sup> "North-Western Provinces and Oudh Act" shall mean an Act made by the <sup>6</sup> Lieutenant-Governor of the North-Western Provinces and Oudh in Council under <sup>1</sup> [the Indian Councils Act, 1861 or] <sup>2</sup> the Indian Councils Acts, 1861 and 1892: "North-Western Provinces and Oudh Act."
- (36) "oath" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing: "Oath."
- (37) <sup>7</sup> "offence" shall mean any act or omission made punishable by any law for the time being in force: "Offence."
- (38) "Part" shall mean a Part of the Act or Regulation in which the word occurs: "Part."
- (39) "person" shall include any company or association or body of individuals, whether incorporated or not: "Person."
- (40) "Political Agent" shall include— "Political Agent."  
(a) the principal officer representing the Government in any territory or place beyond the limits of British India, and

24 & 25 Vict.,  
c. 67; 55 & 56  
Vict., c. 14.

<sup>1</sup> These words were inserted by the Repealing and Amending Act, 1903 (1 of 1903), s. 3, Genl. Acts, Vol. VI.

<sup>2</sup> Coll. Stats. Ind., Vol. II.

<sup>3</sup> The Code now in force is Act 5 of 1898, Genl. Acts, Vol. V.

<sup>4</sup> See s. 742 of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), Coll. Stats. Ind., Vol. II.

<sup>5</sup> For a comprehensive definition of the word "property," see s. 168 of the Bankruptcy Act, 1883 (46 & 47 Vict., c. 52).

<sup>6</sup> Read now "United Provinces of Agra and Oudh" and "Lieutenant-Governor of the United Provinces of Agra and Oudh in Council" respectively, see s. 2 of the United Provinces (Designation) Act, 1902 (8 of 1902), Genl. Acts, Vol. V, and see sub-section (55a), *infra*.

<sup>7</sup> See a similar definition in s. 4 (v) of the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

- (b) any officer of the Government of India or of any Local Government appointed, by the Government of India or the Local Government to exercise all or any of the powers of a Political Agent for any place not forming part of British India under the law for the time being in force relating to foreign jurisdiction and extradition ;
- " Presidency-town." (41) <sup>1</sup> " Presidency-town " shall mean the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William, Madras or Bombay, as the case may be :
- " Privy Council." (42) <sup>2</sup> " Privy Council " shall mean the Lords and others for the time being of Her Majesty's Most Honourable Privy Council :
- " Province." (43) <sup>3</sup> " Province " shall mean the territories for the time being administered by any Local Government :
- " Public nuisance." (44) <sup>4</sup> " public nuisance " shall mean a public nuisance as defined in the Indian Penal Code <sup>4</sup> :
- (44 a) <sup>5</sup> [ " Punjab Act " shall mean an Act made by the Lieutenant-Governor of the Punjab in Council under the Indian Councils Act, 1861 and 1892.]
- " Registered." (45) <sup>6</sup> " registered," used with reference to a document, shall mean registered in British India under the law for the time being in force for the registration of documents :
- " Regulation." (46) " Regulation " shall mean a Regulation made under the Government of India Act, 1870 <sup>7</sup> :
- " Rule." (47) " rule " shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment <sup>8</sup> :
- " Schedule." (48) " schedule " shall mean a schedule to the Act or Regulation in which the word occurs :
- " Scheduled District." (49) " Scheduled district " shall mean a " Scheduled District " as defined in the Scheduled Districts Act, 1874 <sup>9</sup> :

XLV of 1860,  
24 and 25  
Vict., c. 67,  
and 55 and 56  
Vict., c. 14.

33 Vict., c. 3.

XIV of 1874.

<sup>1</sup> See s. 4 (h) of the repealed Code of Criminal Procedure, 1882 (Act 10 of 1882), and *cf.* s. 3 (25) of the Madras General Clauses Act, 1891 (Mad. Act. 1 of 1891), Mad. Code, Vol. II.

<sup>2</sup> *Cf.* s. 12 (5) of the Interpretation Act, 1889 (52 & 53 Vict., c. 63), Coll. Stats. Ind., Vol. II.

<sup>3</sup> *Cf.* s. 4 (g) of the repealed Code of Criminal Procedure, 1882 (Act 10 of 1882).

<sup>4</sup> Genl. Acts, Vol. I.

As to procedure in the case of public nuisances, *see* Code of Criminal Procedure, 1898 (Act 5 of 1898), Ch. X, Genl. Acts, Vol. V.

<sup>5</sup> This clause was inserted by the Repealing and Amending Act, 1903 (1 of 1903), s. 3, Genl. Acts, Vol. VI.

<sup>6</sup> *Cf.* the Madras General Clauses Act, 1891 (Mad. Act 1 of 1891), s. 3 (11), Mad. Code, Vol. II.

As to law now in force, *see* the Indian Registration Act, 1908 (16 of 1908), Genl. Acts, Vol. VI.

<sup>7</sup> Coll. Stats. Ind., Vol. II.

<sup>8</sup> The provisions of ss. 20 to 24, *infra*, apply to rules defined in this sub-section.

<sup>9</sup> Genl. Acts, Vol. II.

## (General Definitions.)

- (50) "section" shall mean a section of the Act or Regulation in which "Section." the word occurs :
- (51) <sup>1</sup> "ship" shall include every description of vessel used in navigation "Ship." not exclusively propelled by oars :
- (52) <sup>2</sup> "sign," with its grammatical variations and cognate expressions "Sign." shall, with reference to a person who is unable to write his name, include "mark," with its grammatical variations and cognate expressions :
- (53) "son," in the case of any one whose personal law permits adoption, "Son." shall include an adopted son :
- (54) "sub-section" shall mean a sub-section of the section in which the "Sub-section." word occurs :
- (55) <sup>3</sup> "swear," with its grammatical variations and cognate expressions, "Swear" shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing :
- <sup>4</sup> [(55a) "United Provinces Act" shall mean an Act made by the "United Provinces] Act." Lieutenant-Governor of the North-Western Provinces and Oudh (or of the United Provinces of Agra and Oudh) in Council under the Indian Councils Act, 1861, or the Indian Councils Acts, 1861 and 1892.]
- (56) <sup>5</sup> "vessel" shall include any ship or boat or any other description of "Vessel." vessel used in navigation :
- (57) <sup>6</sup> "will" shall include a codicil and every writing making a voluntary "Will." posthumous disposition of property :
- (58) <sup>7</sup> expressions referring to "writing" shall be construed as including "Writing." references to printing, lithography, photography and other modes of representing or reproducing words in a visible form : and
- (59) <sup>8</sup> "year" shall mean a year reckoned according to the British calendar.

<sup>1</sup> Cf. s. 742 of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), Coll. Stats. Ind., Vol. II.

<sup>2</sup> See also definition of "writing" in sub-section 58, *infra*.

<sup>3</sup> See also definitions of "affidavit" and "oath" *supra*, sub-sections (3) & (36), respectively, and as to oaths, see the Indian Oaths Act, 1873 (10 of 1873), Genl. Acts, Vol. II.

<sup>4</sup> This clause was inserted by the Repealing and Amending Act, 1903 (1 of 1903), s. 3, Genl. Acts, Vol. VI.

<sup>5</sup> Cf. s. 742 of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), Coll. Stats. Ind., Vol. II. This definition supplements the definition of ship in sub-section (51), *supra*. See also definition of vessel in s. 48 of the Indian Penal Code, 1860 (Act 45 of 1860), Genl. Acts, Vol. I, and in s. 3 (d) of the Northern India Canal and Drainage Act, 1873 (8 of 1873), U. P. Code, Vol. I, and in s. 3 (f) of the Sea Customs Act, 1878 (8 of 1878), Genl. Acts, Vol. III.

<sup>6</sup> See the definition of will in s. 3 of the Indian Succession Act, 1865 (10 of 1865), Genl. Acts, Vol. I.

<sup>7</sup> Cf. s. 20 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63), Coll. Stats. Ind., Vol. II.

<sup>8</sup> As to "financial year" see sub-section (19), *supra*.

*(General Definitions. General Rules of Construction.)*

Application  
of foregoing  
definitions to  
previous  
enactments.

4. (1) The definitions in section 3 of the following words and expressions, that is to say, "affidavit," "barrister," "British India," "District Judge," "father," "Government of India," "Her Majesty" or "the Queen," "High Court," "immoveable property," "imprisonment," "Local Government," "Magistrate," "month," "moveable property," "oath," "person," "section," "son," "swear," "will" and "year" apply also, unless there is anything repugnant in the subject or context, to all Acts of the Governor General Council made after the third day of January, 1868, and to all regulations made on or after the fourteenth day of January, 1887.

(2) The definitions in the said sections of the following words and expressions, that is to say, "abet," "Chapter," "commencement," "financial year," "local authority," "master," "offence," "Part," "public nuisance," "registered," "schedule," "ship," "sign," "sub-section" and "writing," apply also, unless there is anything repugnant in the subject or context, to all Acts of the Governor General in Council and Regulations made on or after the fourteenth day of January, 1887.

*General Rules of Construction.*

Coming into  
operation of  
enactments.

5. (1) Where any Act of the Governor General in Council is not expressed to come into operation on a particular day, then it shall come into operation on the day on which it receives the assent of the Governor General.

(2) Where any Act of the Governor General in Council is reserved under the Indian Councils Act, 1861,<sup>1</sup> section 20, for the signification of Her Majesty's pleasure thereon, then, if no later date is expressed, it shall come into operation, if assented to by Her Majesty, on the day on which the assent of Her Majesty is duly proclaimed.

24 & 25  
Vict., c. 67.

<sup>2</sup>(3) Unless the contrary is expressed, an Act of the Governor General in Council or Regulation shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

Effect of  
repeal.

6.<sup>3</sup> Where this Act, or any Act of the Governor General in Council or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—

(a) revive anything not in force or existing at the time at which the repeal takes effect ; or

<sup>1</sup> Coll. Stats. Ind., Vol. I.

<sup>2</sup> Cf. s. 36 (2) of the Interpretation Act, 1889 (52 & 53 Vict., c. 63), Coll. Stats. Ind., Vol. II. As to power to make rules between the passing and commencement of an Act which does not come into force at once, see s. 22, *infra*.

<sup>3</sup> Cf. s. 38 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).



*(General Rules of Construction.)*

- (b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder ; or
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed ; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed ; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid ;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed.

7.<sup>1</sup> (1) In any Act of the Governor General in Council or Regulation made after the commencement of this Act, it shall be necessary, for the purpose of reviving, either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose.

Revival of repealed enactments.

(2) This section applies also to all Acts of the Governor General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

8.<sup>2</sup> Where this Act, or any Act of the Governor General in Council or Regulation made after the commencement of this Act, repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

Construction of reference to repealed enactments.

9. (1) In any Act of the Governor General in Council or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time to use the word "from," and, for the purpose of including the last in a series of days or any other period of time, to use the word "to".

Commencement and termination of time.

(2) This section applies also to all Acts of the Governor General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

10.<sup>3</sup> (1) Where, by any Act of the Governor General in Council or Regulation made after the commencement of this Act, any act or proceeding

Computation of time.

<sup>1</sup> Cf. s. 11 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63), Coll. Stats. Ind., Vol. II.

<sup>2</sup> Cf. s. 38 (1) of the Interpretation Act, 1889 (52 & 53 Vict., c. 63), Coll. Stats. Ind., Vol. II. See a similar provision in s. 3 of the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

<sup>3</sup> See the Madras General Clauses Act, 1891 (Mad. Act 1 of 1891), s. 11, Mad. Code. Vol. II.

*(General Rules of Construction. Powers and Functionaries.)*

is directed or allowed to be done or taken in any Court of office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open :

Provided that nothing in this section shall apply to any act or proceeding to which the <sup>1</sup> Indian Limitation Act, 1877, applies.

XV of 1877-

(2) This section applies also to all Acts of the Governor General in Council and Regulations made on or after the fourteenth day of January, 1887.

Measurement  
of distances.

11. <sup>2</sup> In the measurement of any distance, for the purposes of any Act of the Governor General in Council or Regulation made after the commencement of this Act, distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

Duty to be  
taken *pro rata*  
in enactments.

12. Where by any enactment <sup>3</sup> now in force or hereafter to be in force ; any duty of customs or excise, or in the nature thereof, is leviable on any given quantity, by weight, measure or value of any goods or merchandize, then a like duty is leviable according to the same rate on any greater or less quantity.

Gender and  
number.

13. In all Acts of the Governor General in Council and Regulations unless there is anything repugnant to the subject or context—

(1) words importing the masculine gender shall be taken to include females ; and

(2) words in the singular shall include the plural, and *vice versa*.

*Powers and Functionaries.*

Powers con-  
ferred on the  
Government  
to be exer-  
cisable from  
time to time.

14. (1) Where, by any Act of the Governor General in Council or Regulation made after the commencement of this Act, any power is conferred on the Government, then that power may be exercised from time to time as occasion requires.

This section applies also to all Acts of the Governor General in Council and Regulations made on or after the fourteenth day of January, 1887.

Power to  
appoint  
to include

15. Where, by any Act of the Governor General in Council or Regulation, a power to appoint any person to fill any office or execute any function

<sup>1</sup> See now Act 9 of 1908, Genl. Acts, Vol. VI.

<sup>2</sup> Cf. s. 34 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63), Coll. Stats. Ind., Vol. II

<sup>3</sup> As to definition of "enactment" see s. 3, sub-section (17), *supra*.

## (Powers and Functionaries.)

is conferred, then, unless it is otherwise expressly provided, any such appointment, if it is made after the commencement of this Act, may be made either by name or by virtue of office.<sup>1</sup>

power to  
appoint  
*ex officio*.

16. Whereby any Act of the Governor General in Council or Regulation, a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power.<sup>2</sup>

Power to  
appoint  
to include  
power to  
suspend or  
dismiss.

17. (1) In any Act of the Governor General in Council or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed.

Substitution  
of function-  
aries.

(2) This section applies also to all Acts of the Governor General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

18. (1) In any Act of the Governor General in Council or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations.

Successors.

(2) This section applies also to all Acts of the Governor General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

19. (1) In any Act of the Governor-General in Council or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior.

Official chiefs  
and subordin-  
ates.

(2) This section applies also to all Acts of the Governor General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

<sup>1</sup> See similar provision in s. 39 of the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

<sup>2</sup> See as to this provision the Statement of Objects and Reasons quoted, *supra*.

*[(Provisions as to Orders, Rules, etc., made under Enactments.)]*

Construction of orders, etc., issued under enactments.

20.<sup>1</sup> Where, by any Act of the Governor General in Council or Regulation, a power to issue any order <sup>2</sup> [notification], scheme, rule, form or bye-law as conferred, then expressions used in the order, <sup>2</sup> [notification], scheme, rule, form or bye-law, if it is made after the commencement of this Act, shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act or Regulation conferring the power.

Power to make to include power to add to, amend, vary or rescind, orders, rules or bye-laws.

21.<sup>3</sup> Where, by any Act of the Governor General in Council or Regulation, a power to <sup>4</sup>[issue notifications] orders, rules or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any <sup>5</sup>[notifications], orders, rules or bye-laws so <sup>6</sup>[issued].

Making of rules or bye-laws and issuing of orders between passing and commencement of enactment.

22.<sup>7</sup> Where, by any Act of the Governor General in Council or Regulation which is not to come into force immediately on the passing thereof, a power is conferred to make rules or bye-laws, or to issue orders with respect to the application of the Act or Regulation, or with respect to the establishment of any Court or office or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act or Regulation, then that power may be exercised at any time after the passing of the Act or Regulation; but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act or Regulation.

Provisions applicable to making of rules or bye-laws after previous publication.

23. Where, by any Act of the Governor General in Council or Regulation, a power to make rules or bye-laws is expressed to be given subject to the condition of the rules or bye-laws being made after previous publication, then the following provisions shall apply, namely :—

- (1) the authority having power to make the rules or bye-laws shall before making them, publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby ;
- (2) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous

<sup>1</sup> Cf. s. 31 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63), Coll. Stats. Ind., Vol. II, and s. 10 of the Madras General Clauses Act, 1891 (Mad. Act 1 of 1891), Mad. Code, Vol. II.

<sup>2</sup> The word "notification" was inserted by the Repealing and Amending Act, 1903 (1 of 1903), s. 3, Genl. Acts, Vol. V.

<sup>3</sup> Cf. s. 32 (5) of the Interpretation Act, 1889 (52 & 53 Vict., c. 63), Coll. Stats. Ind., Vol. II.

<sup>4</sup> These words were substituted for the word "make" by the Repealing and Amending Act, 1903 (1 of 1903), s. 3, Genl. Acts, Vol. V.

<sup>5</sup> This word was inserted by the Repealing and Amending Act, 1903 (1 of 1903), s. 3.

<sup>6</sup> This word was substituted for the word "made" by the Repealing and Amending Act, 1903 (1 of 1903), s. 3 and 2nd Schedule.

<sup>7</sup> Cf. s. 37 of the Interpretation Act, 1889 (52 & 53 Vict., c. 62), Coll. Stats. Ind., Vol. II.

(Provisions as to Orders, Rules, etc., made under Enactments.

*Miscellaneous.*)

publication so requires, in such manner as the Governor General in Council or the Local Government prescribes ;

- (3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration ;
- (4) the authority having power to make the rules or bye-laws, and where the rules or bye-laws are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified ;
- (5) the publication in the Gazette of a rule or bye-law purporting to have been made in exercise of a power to make rules or bye-laws after previous publication shall be conclusive proof that the rule or bye-law has been duly made.

24.<sup>1</sup> Where any Act of the Governor General in Council or Regulation is, after the commencement of this Act, repealed and re-enacted with or without modification, then, unless it is otherwise expressly provided, any<sup>3</sup> [appointment, notification] order, scheme, rule, form or by bye-law, <sup>2</sup> [made or] issued under the repealed Act or Regulation, shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been issued under the provisions so re-enacted, unless and until it is superseded by any<sup>2</sup> [appointment, notification] order, scheme, rule, form or bye-law<sup>2</sup> [made or] issued under the provisions so re-enacted.

Continuation of orders, etc., issued under enactments repealed and re-enacted.

*Miscellaneous.*

25. Sections 63 to 70 of the<sup>3</sup> Indian Penal Code and the provisions of the<sup>4</sup> Code of Criminal Procedure for the time being in force in relation to the issue and the execution of warrants for the levy of fines shall apply to all fines imposed under any Act, Regulation, rule or bye-law, unless the Act, Regulation, rule or bye-law contains an express provision to the contrary.

Recovery of fines.

26. Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished

Provision as to offences punishable

<sup>1</sup> Cf. s. 18 of the Madras General Clauses Act, 1891 (Mad. Act 1 of 1891), Mad. Code, Vol. II.

<sup>2</sup> These words were inserted by the Repealing and Amending Act, 1908 (1 of 1908), s. 3, Genl. Acts, Vol. V.

<sup>3</sup> Genl. Acts, Vol. I.

<sup>4</sup> See now s. 386 *et seq.* of the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

*(Miscellaneous. The Schedule—Enactments repealed.)*

under two or more enactments.

Meaning of service by post.

under either or any of those enactments, but shall not be liable to be punished twice for the same offence.<sup>1</sup>

27.<sup>2</sup> Where any Act of the Governor General in Council or Regulation made after the commencement of this Act authorizes or requires any document to be served by post, whether the expression “serve” or either of the expressions “give” or “send” or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Citation of enactments.

28.<sup>3</sup> (1) In any Act of the Governor General in Council or Regulation and in any rule, bye-law, instrument or document made under, or with reference, to any such Act or Regulation, any enactment may be cited by reference to the title or short title (if any) conferred thereon or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.

(2) In this Act and in any Act of the Governor-General in Council or Regulation made after the commencement of this Act, a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

Saving for previous enactments, rules and bye-laws.

29.<sup>4</sup> The provisions of this Act respecting the construction of Acts, Regulations, rules or bye-laws made after the commencement of this Act shall not affect the construction of any Act, Regulation, rule or bye-law made before the commencement of this Act, although the Act, Regulation, rule or bye-law is continued or amended by an Act, Regulation, rule or bye-law made after the commencement of this Act.

*The Schedule.**[Enactments repealed.]*

*Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

<sup>1</sup> As to definition of “offence” *see supra*, sub-section (37) of section 3.

<sup>2</sup> *Cf.* s. 26 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63), Coll. Stats. Ind., Vol. II.

<sup>3</sup> *Cf.* s. 35 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63). Short titles have been conferred on the unrepealed General Acts of the Governor General in Council which had previously no short titles, *see* the Indian Short Titles Act, 1897 (14 of 1897), *infra*.

<sup>4</sup> *Cf.* s. 40 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63), Coll. Stats. Ind., Vol. II.

ACT No. XII of 1897.<sup>1</sup>

[26th March, 1897.]

**An Act to enable local authorities to borrow money for temporary emergencies.**

WHEREAS it is expedient to enable local authorities to borrow money for temporary emergencies ; It is hereby enacted as follows :—

1. (1) This Act may be called the Local Authorities (Emergency) Loans Act, 1897.

Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of British India ; and

(3) It shall come into force at once.

XI of 1879.

2. (1) Notwithstanding anything contained in the <sup>1</sup> Local Authorities Loan Act, 1879, or any other law for the time being in force, a local authority as defined in that Act may, with the previous sanction of the Governor General in Council, borrow money on the security of its funds for any of the following purposes, namely :—

Power to  
local author-  
ities to bor-  
row in cases  
of famine or  
epidemic  
disease.

(a) the giving of relief and the establishment and maintenance of relief-works in time of famine or scarcity ;

(b) the prevention of the outbreak or spread of any dangerous epidemic disease ; and

(c) any measures which may be connected with, or ancillary to, any of the purposes aforesaid.

(2) Nothing in this section shall be deemed to authorize any local authority to borrow or spend money for any purpose for which under the law for the time being in force it is not authorized to apply its funds.

3 (1) Every loan under the last foregoing section shall be made subject to such terms and conditions as the Governor General in Council may think fit to impose.

Power to  
Governor  
General in  
Council to  
impose con-  
ditions.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), the Governor General in Council may, by general or special order, prescribe—

(a) the terms on which the Governor General in Council or the Local Government may lend money under this Act ;

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1897, Pt. V, p. 67 ; for Report of the Select Committee, see *ibid*, p. 93, and for Proceedings in Council, see *ibid*, Pt. VI, pp. 47, 80, 112 and 198.

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

<sup>2</sup> Gel. Acts, Vol. III.

- (b) the manner of recording and enforcing the conditions on which such loans are to be made;
- (c) the inspection of any works carried out or expenditure incurred by means of such loans;
- (d) the instalments by which such loans are to be repaid, the interest to be charged thereon and the manner and time of repaying such loans and of paying the interest thereon; and
- (e) the accounts to be kept in respect of such loans.

sections 6 and  
7, Act XI,  
1879.  
Application  
to loans made  
before com-  
mencement of  
Act.

4. The provisions of sections 6 and 7 of the Local Authorities Loan Act, XI of 1879, shall apply to the borrowing of money under this Act.

5. The provisions of this Act shall apply to any loan made after the first day of January, 1897, and before the commencement of this Act by, or with the sanction of, the Governor General in Council to any local authority for any of the purposes hereinbefore mentioned, and every such loan shall be deemed to have been made under this Act.

#### ACT No. XIV OF 1897. <sup>1</sup>

[22nd July, 1897.]

#### An Act to facilitate the citation of certain Acts.

WHEREAS it is expedient to facilitate the citation of certain Acts; It is hereby enacted as follows :—

Title and  
commence-  
ment.  
Citation of  
Acts de-  
scribed in  
schedule.

1. (1) This Act may be called the Indian Short Titles Act, 1897; and
- (2) It shall come into force at once.
2. Each of the Acts described in the first three columns of the schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof.

#### THE SCHEDULE.<sup>2</sup>

1	2	3	4
Year.	No.	Subject.	Short Title.
1834	11	Authorising Secretaries to Government to exercise powers of Chief Secretaries.	The Secretaries to Government Act, 1834.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1897, Pt. V, p. 110, and for Proceedings in Council, see *ibid.*, 1897, pp. 206 and 217.

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code; in the Angul District, by notification under s. 5 of the Angul District Regulation, 1894 (1 of 1894), see Calcutta Gazette, 1899, Pt. I, p. 1064.

<sup>2</sup> Acts to which short titles have been given by this Schedule are unrepealed General Acts of the Governor General in Council, and, where they have not since been repealed, they will be found reprinted in one of the six volumes of the revised edition of these Acts, according to the year to which they belong.



(Schedule.)

THE SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short Title.
1837	IV	Empowering all subjects of Her Majesty to hold land.	The Property in Land Act, 1837.
1838	XXV	Wills . . . . .	The Wills Act, 1838.
1839	XXIX	Amending the Law relating to Dower . . .	The Dower Act, 1839.
"	XXX	Amending the Law of Inheritance . . .	The Inheritance Act, 1839.
"	XXXII	Concerning the allowance of interest in certain cases.	The Interest Act, 1839.
1841	X	Prescribing the Rules to be observed in order that ships or vessels belonging to port within the territories under the Government of the East India Company, or belonging to Native Princes or States or their subjects, may become entitled to the privileges of British ships under a proclamation of the Governor General of India in Council made in pursuance of the Statute 3rd and 4th Victoria, ch. 56.	The Indian Registration of Ships Act, 1841.
"	XIX	Providing for the protection of moveable and immoveable property against wrongful possession in cases of succession.	The Succession (Property Protection) Act, 1841.
"	XXIV	Providing for the greater uniformity of the Law administered by Her Majesty's Supreme Courts with that administered in England in regard to the undisposed residue of the effects of Testators, Illusory Appointments, the transfer of Estate by persons under disabilities pursuant to the direction of Courts, and the better management of the property of such persons and other like matters.	The Illusory Appointments and Infants' Property Act, 1841.
"	XXVII	Providing for the appropriation of the unclaimed Dividends on Insolvent Estates.	The Insolvent Estates (Unclaimed Dividends) Act, 1841.
1843	V	Declaring and amending the Law regarding the condition of Slavery within the territories of the East India Company.	The Indian Slavery Act, 1843.
1846	I	Amending the Law regarding the appointment and remuneration of Pleaders in the Courts of the East India Company.	The Legal Practitioners Act, 1846.
1847	XX	Providing for the encouragement of learning in the territories subject to the Government of the East India Company by defining and providing for the enforcement of the right called Copyright therein.	The Indian Copyright Act, 1847.

THE SCHEDULE—*contd.*

1	2		4
Year.	No.	Subject.	Short Title.
1848	XV	Forbidding trading by the Officers of the Supreme Courts.	The Supreme Courts' Officers Trading Act, 1848.
1850	V	Providing for freedom of the Coasting Trade of India.	The Indian Coasting Trade Act, 1850.
"	XI	Amending Act X, 1841 . . . . .	The Indian Registration of Ships Act (1841) Amendment Act, 1850.
"	XII	Providing for avoiding loss by the default of Public Accountants.	The Public Accountant Defaults Act, 1850.
"	XVIII	Providing for the protection of Judicial Officers.	The Judicial Officers' Protection Act, 1850.
"	XIX	Concerning the binding of Apprentices . . .	The Apprentices Act, 1850.
"	XXI	Extending the principle of section 9, Regulation VIII, 1832, of the Bengal Code throughout the territories subject to the Government of the East India Company.	The Caste Disabilities Removal Act, 1850.
"	XXXIV	Providing for the better Custody of State Prisoners.	The State Prisoners Act, 1850.
1851	VIII	Enabling Government to levy Tolls on Public Roads and Bridges.	The Indian Tolls Act, 1851.
1852	VIII	Providing for the remuneration of the Sheriffs of Calcutta, Madras and Bombay for the execution of Mufassal Process under the Code of Criminal Procedure, 1882, and the Code of Civil Procedure.	The Sheriffs' Fees Act, 1852.
"	XXX	Providing for the Naturalization of Aliens . .	The Indian Naturalization Act, 1852.
1853	I	Removing doubts as to the liability of all subjects of Her Majesty to the same jurisdiction as Natives in respect of public and Police duties and public charges incident to the holders of land or their local Agents or Managers.	The Landholders' Public Charges and Duties Act, 1853.
"	XX	Amending the Law relating to Pleaders in the Courts of the East India Company.	The Legal Practitioners Act, 1853.
1854	XXXI	Simplifying the modes of conveying land in cases to which the English Law is applicable.	The Conveyance of Land Act, 1854.
1855	XI	Relating to mesne Profits and to improvements made by holders under defective titles in cases to which the English Law is applicable.	The Mesne Profits and Improvements Act, 1855.

THE SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short Title.
1855	XII	Enabling Executors, Administrators or Representatives to sue and be sued for certain wrongs.	The Legal Representatives' Suits Act, 1855.
"	XIII	Providing compensation to families for loss occasioned by the death of a person caused by actionable wrong.	The Indian Fatal Accidents Act, 1855.
"	XXIII	Amending the Law relating to the administration of the Estates of deceased persons charged with money by way of mortgage.	The Mortgaged Estates' Administration Act, 1855.
"	XXIV	Substituting penal servitude for the punishment of transportation in respect of European and American Convicts.	The Penal Servitude Act, 1855.
"	XXVIII	Repealing the Usury Laws . . . . .	The Usury Laws Repeal Act, 1855.
1856	IX	Amending the law relating to Bills of Lading .	The Indian Bills of Lading Act, 1856.
"	XI	Providing for the better prevention of desertion by European Soldiers from the Land Forces of Her Majesty in India.	The European Deserters Act, 1856.
"	XV	Removing all legal obstacles to the marriage of Hindu Widows.	The Hindu Widows' Remarriage Act, 1856.
1857	II	Providing for the establishment and incorporation of a University at Calcutta.	The Calcutta University Act, 1857.
"	XI	Providing for the prevention, trial and punishment of offences against the State.	The State Offences Act, 1857.
"	XXII	Providing for the establishment and incorporation of a University at Bombay.	The Bombay University Act, 1857.
"	XXV	Providing for the adjudication and recovery of forfeitures of property in certain cases.	The Forfeiture Act, 1857.
"	XXVII	Providing for the establishment and incorporation of a University at Madras.	The Madras University Act, 1857.
1858	III	Amending the Law relating to the arrest and detention of State Prisoners.	The State Prisoners Act, 1858.
"	XXXIV	Regulating proceedings in Lunacy in the Courts of Judicature established by Royal Charter.	The Lunacy (Supreme Courts) Act, 1858.
"	XXXV	Making better provision for the care of the Estates of Lunatics not subject to the jurisdiction of the Supreme Courts of Judicature.	The Lunacy (District Courts) Act, 1858.
"	XXXVI	Lunatic Asylums . . . . .	The Indian Lunatic Asylums Act, 1858.

(Schedule.)

THE SCHEDULE—*contd.*

1	2	3	
Year.	No.	Subject.	Short Title.
1859		Amending the Law relating to Merchant Seamen.	The Indian Merchant Shipping Act, 1859.
"	IX	Providing for the adjudication of claims to property seized or forfeited.	The Forfeiture Act, 1859.
"	XIII	Providing for the punishment of breaches of Contract by Artificers, Workmen and Labourers in certain cases.	The Workmen's Breach of Contract Act, 1859.
1860	IX	Making provision for the speedy determination of certain disputes between workmen engaged in railway and other public works and their employers.	The Employers and Workmen (Disputes) Act, 1860.
"	XXI	Providing for the Registration of Literary, Scientific and Charitable Societies.	The Societies' Registration Act, 1860.
"	XXXIV	Indemnifying Officers of Government and other persons in respect of fines and contributions levied, and acts done, by them during the late disturbances.	The Government Officers Indemnity Act, 1860.
"	XLVII	Giving to the Universities of Calcutta, Madras and Bombay the power of conferring degrees in addition to those mentioned in Acts II, XXII and XXVII of 1857.	The Indian Universities (Degrees) Act, 1860.
1861	V	Providing for the Regulation of Police . . .	The Police Act, 1861.
"	XVI	Providing for the licensing and regulation of Stage-Carriages.	The Stage-Carriages Act, 1861.
1862	III	Amending the Law relating to the use of a Government Seal.	The Government Seal Act, 1862.
1863	XVI	Making special provision for the levy of the Excise-duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry.	The Excise (Spirits) Act, 1863.
"	XX	Enabling the Government to divest itself of the management of Religious Endowments.	The Religious Endowments Act, 1863.
"	XXIII	Providing for the adjudication of claims to waste lands.	The Waste Lands (Claims) Act, 1863.
"	XXXI	Giving effect to the publication of certain orders and other matters in the Gazette of India.	The Official Gazettes Act, 1863.
1864	III	Giving the Government certain powers with respect to Foreigners.	The Foreigners Act, 1864.
"	VI	Authorizing the punishment of whipping in certain cases.	The Whipping Act, 1864.

(Schedule.)

THE SCHEDULE—*contd.*

1			4
Year.	No.	Subject.	Short Title.
1864	XV	Amending Act VIII of 1851 ( <i>for enabling Government to levy Tolls on public Roads and Bridges</i> ).	The Indian Tolls Act, 1864.
"	XVII	Providing for the constitution of an Office of Official Trustee.	The Official Trustees Act, 1864.
1865	XXI	Defining and amending the law relating to Intestate Succession among the Parsis.	The Parsi Intestate Succession Act, 1865.
1	*	* * *	* *
1866	XXV	Providing for the transfer to the Government of India of certain securities and moneys deposited in the High Courts of Judicature at Fort William, Madras and Bombay.	The Unclaimed Deposits Act, 1866.
1867	XVI	Authorizing the making of certain acting appointments to certain Judicial Offices.	The Acting Judges Act, 1867.
"	XXV	Providing for the regulation of Printing-presses and Newspapers, for the preservation of copies of books printed in British India, and for the registration of such books.	The Press and Registration of Books Act, 1867.
1870	I	Providing Rules relating to Quarantine	The Indian Quarantine Act, 1870.
"	V	Enabling the High Courts at the Presidency-towns to deal with costs of petitions for certain moneys transferred to Government.	The Unclaimed Deposits Act, 1870.
"	VIII	Providing for the prevention of the murder of Female Infants.	The Female Infanticide Prevention Act, 1870.
"	XX	Correcting two clerical errors in the Court-fees Act, 1870.	The Court-fees Act (1870) Amendment Act, 1870.
"	XXVII	Amending the Indian Penal Code . . .	The Indian Penal Code Amendment Act, 1870.
1872	III	Providing a form of Marriage for persons who do not profess the Christian, Jewish, Hindu, Muhammadan, Parsi, Buddhist, Sikh or Jaina religion.	The Special Marriage Act, 1872.
"	XIX	Amending the definition of "Coin" in the Indian Penal Code.	The Indian Penal Code Amendment Act, 1872.
"	V	Removing doubts as to the rights and liabilities of certain native soldiers.	The Unattested Sepoys Act, 1875.

<sup>1</sup> The entry relating to Act 5 of 1866 was repealed by the Transfer of Property Act, 1900 (2 of 1900), Genl. Acts, Vol. V.

THE SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short Title.
1875	X	<i>Regulating the Procedure of the High Courts in the exercise of their original criminal jurisdiction.</i>	<i>The Advocate General's (Powers) Act, 1875.</i>
"	XIII	Amending the Law relating to Probates and Letters of Administration.	The Probate and Administration Act, 1875.
1876	XVI	Amending the Stage-Carriages Act . . . . .	The Stage-Carriages Act (1861) Amendment Act, 1876.
1877	II	Amending Act XIII of 1875 . . . . .	The Probate and Administration Act, 1877.
"	IV	Regulating the procedure and increasing the jurisdiction of the Courts of Magistrates in the Presidency-towns.	The Presidency Magistrates (Court-fees) Act, 1877.
1879	XII	Amending the Registration Act, 1877, and the Limitation Act, 1877.	The Registration and Limitation Acts Amendment Act, 1879.
1882	VIII	Amending the Indian Penal Code . . . . .	The Indian Penal Code Amendment Act, 1882.
1883	II	Amending the Elephants' Preservation Act, 1879.	The Elephants' Preservation Act (1879) Amendment Act, 1883.
1884	I	Amending the Law relating to the granting of honorary degrees by the Universities at Calcutta, Madras and Bombay.	The Indian Universities (Honorary Degrees) Act, 1884.
1885	III	Amending the Transfer of Property Act, 1882 . . . . .	The Transfer of Property Act (1882) Amendment Act, 1885.
"	IX	Amending the Excise Act, 1881, the Bengal Excise Act, 1878, and the Sea Customs Act, 1878.	The Excise and Sea Customs Law Amendment Act, 1885.
"	XV	Amending the Local Authorities Loan Act, 1879 . . . . .	The Local Authorities Loan Act (1879) Amendment Act, 1885.
1886	II	Imposing a tax on income derived from sources other than agriculture.	The Indian Income-tax Act, 1886.
"	IV	Amending section 265 of the Indian Contract Act, 1872.	The Indian Contract Act (1872) Amendment Act, 1886.
"	X	Amending the Code of Criminal Procedure, 1882, and certain other Acts.	The Indian Criminal Law Amendment Act, 1886.

<sup>1</sup> This Act is now repealed by the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

(Schedule.)

THE SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short Titles.
1886	XVIII	Amending Act XXXVI of 1853 . . .	The Indian Lunatic Asylums Act (1858) Amendment Act, 1846.
1887	II	Amending the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882.	The Sea Customs Act (1878) Amendment Act, 1887.
"	III	Amending the Indian Evidence Act, 1872 .	The Indian Evidence Act (1872) Amendment Act, 1887.
"	V	Amending the Code of Criminal Procedure, 1882.	The Criminal Procedure Code (1882) Amendment Act, 1887.
"	VI	Amending the Indian Companies Act, 1882 .	The Indian Companies Act (1882) Amendment Act, 1887.
" 1888	I	Amending the Indian Stamp Act, 1879 . .	The Indian Stamp Act (1879) Amendment Act, 1888.
"	II	Providing for the levy of a Customs-duty on Petroleum.	The Petroleum (Customs-duty) Act, 1888.
"	VIII	Removing doubts as to the legality of the levy of certain Tolls.	The Indian Tolls Act, 1888.
"	X	Amending the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882.	The Presidency Small Cause Courts Law Amendment Act, 1888.
"	XI	Making an addition to the Indian Telegraph Act, 1885.	The Indian Telegraph (Presidency-towns) Act, 1888.
"	XVII	Amending the Indian Marine Act, 1887 .	The Indian Marine Act (1887) Amendment Act, 1888.
1889	VIII	Amending the Sea Customs Act, 1878, and the Indian Tariff Act, 1882.	The Sea Customs Act (1878) Amendment Act, 1889.
"	XX	Amending Act XXXVI of 1853 . . .	The Indian Lunatic Asylums Act (1858) Amendment Act, 1846.
1890	II	Amending Acts XVII of 1864, X of 1865, II of 1874 and V of 1881.	The Probate and Administration Act, 1890.

<sup>1</sup>This Act is now repealed by the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.<sup>2</sup>This Act is now repealed by the Indian Stamp Act, 1899 (2 of 1899), Genl. Acts, Vol. V.

(Schedule.)

THE SCHEDULE.—*contd.*

1	2	3	4
Year.	No.	Subject.	Short Title.
1890	III	Amending Acts VI and VII of 1884 . . .	The Indian Steamships Law Amendment Act, 1890.
"	X	Amending Act XXV of 1867 . . .	The Press and Registration of Books Act (1867) Amendment Act, 1890.
1*	*	* * * * *	* *
"	XVI	Amending the Births, Deaths and Marriages Registration Act, 1886.	The Births, Deaths and Marriages Registration Act (1886) Amendment Act, 1890.
"	XVIII	Amending the Indian Emigration Act, 1883 .	The Indian Emigration Act (1883) Amendment Act, 1890.
"	XIX	Amending the Indian Salt Act, 1882 . .	The Indian Salt Act (1882) Amendment Act, 1890.
1891	I	Amending the Cattle-trespass Act, 1871, and incorporating therein Act XVIII of 1883.	The Cattle-trespass Act (1871) Amendment Act, 1891.
"	II	Amending the Indian Christian Marriage Act, 1872.	The Indian Christian Marriage Act (1872) Amendment Act, 1891.
"	III	Amending the Indian Evidence Act, 1872, and the Code of Criminal Procedure, 1882.	The Indian Evidence Act (1872) Amendment Act, 1891.
2 "	IV	<i>Amending the Code of Criminal Procedure, 1882.</i>	<i>The Criminal Procedure Code (1882) Amendment Act, 1891.</i>
"	V	Amending and supplementing the Indian Ports Act, 1889.	The Indian Ports Act, 1891.
"	VI	Amending certain Acts respecting Indian Merchant Shipping.	The Indian Merchant Shipping Law Amendment Act, 1891.
"	VII	Amending Act X of 1841 . . .	The Indian Registration of Ships Act (1841) Amendment Act, 1891.
"	IX	Amending the Indian Merchandise Marks Act, 1889, and the Sea Customs Act, 1878.	The Indian Merchandise Marks and Sea Customs Acts Amendment Act, 1891.

<sup>1</sup> The entry relating to Act 14 of 1890, was repealed by the Petroleum Act, 1899 (8 of 1899), Genl. Acts, Vol. V.

<sup>2</sup> This Act is now repealed by the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.



THE SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short Title.
1891	X	Amending the Indian Penal Code and the Code of Criminal Procedure, 1882.	The Indian Criminal Law Amendment Act, 1891.
"	XIII	Amending the Inland Steam-vessels Act, 1884 .	The Inland Steam-vessels Act (1884) Amendment Act, 1891.
1892	II	Validating certain marriages solemnized under Part VI of the Indian Christian Marriage Act, 1872.	The Marriages Validation Act, 1892.
"	VI	<i>Amending the Indian Limitation Act, 1877, and the Code of Civil Procedure.</i>	<i>The Indian Limitation Act and Civil Procedure Code Amendment Act, 1892.</i>
<sup>2</sup> 1893	V	<i>Legalising in certain cases the execution within British India of capital sentences which have been passed by British Courts exercising in or with respect to territory beyond the limits of British Indian jurisdiction which the Governor General has in such territory.</i>	<i>The Foreign Jurisdiction (Capital Sentences) Act, 1893.</i>
<sup>3</sup> 1894	II	<i>Amending the Indian Ports Act, 1889 .</i>	<i>The Indian Ports Act (1886) Amendment Act, 1894.</i>
<sup>4</sup> "	III	Amending the Code of Criminal Procedure, 1882, and the Indian Penal Code.	The Indian Criminal Law Amendment Act, 1894.
<sup>5</sup> "	VI	<i>Amending the Indian Stamp Act, 1879, with respect to policies of Sea and Fire Insurance and Sale-certificates.</i>	<i>The Indian Stamp Act (1879) Amendment Act, 1894.</i>
"	VII	Amending the Prisoners Act, 1871 .	The Prisoners Act (1871) Amendment Act, 1894.
<sup>6</sup> "	X	<i>Amending the Code of Criminal Procedure, 1882.</i>	<i>The Criminal Procedure Code (1882) Amendment Act, 1894.</i>
1895	III	Amending the Indian Penal Code, Act VI of 1864, <sup>4</sup> and the Indian Post-office Act, 1866.	The Indian Criminal Law Amendment Act, 1895.
<sup>6</sup> "	IV	<i>Amending sections 366 and 371 of the Code of Criminal Procedure, 1882.</i>	<i>The Criminal Procedure Code (1882) Amendment Act, 1895.</i>
"	VII	Amending certain sections of the Code of Civil Procedure and the Punjab Laws Act, 1872.	The Punjab Laws Act Amendment Act, 1895.
"	VIII	Amending Act V of 1861 ( <i>an Act for the Regulation of Police</i> ).	The Police Act (1861) Amendment Act, 1895.

<sup>1</sup> These Acts have now been repealed by Acts 9 of 1908 and 5 of 1908, respectively Genl. Vol. VI.<sup>2</sup> This Act has now been repealed by Prisoners Act, 1900 (3 of 1900), Genl. Acts, Vol. VI.<sup>3</sup> This Act has now been repealed by Act 15 of 1908, Genl. Acts, Vol. VI.<sup>4</sup> So far as this Act relates to the Criminal Procedure Code, 1882 (Act 10 of 1882), it has been repealed by the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.<sup>5</sup> This Act is now repealed by the Indian Stamp Act, 1899 (2 of 1899), Genl. Acts, Vol. V.<sup>6</sup> These Acts have now been repealed by the Code of Criminal Procedure, 1898 (Act 5 of 1898).<sup>7</sup> This Act is now repealed by the Indian Post Office Act, 1898 (6 of 1898), Genl. Acts, Vol. V.

(Schedule.)

THE SCHEDULE—*concl'd.*

1	2	3	
Year.	No.	Subject.	Short Title.
1895	XIII	<i>Amending sections 632 and 652 of the Code of Civil Procedure.</i>	<i>The Civil Procedure Code Amendment Act, 1895.</i>
1896	I	Amending the Indian Emigration Act, 1883 ...	The Indian Emigration Act (1883) Amendment Act, 1896.
„	III	Amending the Indian Tariff Act, 1894 ...	The Indian Tariff Act (1894) Amendment Act, 1896.
2 „	IV	<i>Amending the Indian Ports Act, 1889 ...</i>	<i>The Indian Ports Act (1889) Amendment Act, 1896.</i>
„	V	<i>Amending the Foreign Jurisdiction and Extradition Act, 1879.</i>	<i>The Foreign Jurisdiction and Extradition Act (1879) Amendment Act 1896.</i>
„	VI	Amending the Indian Penal Code . . .	The Indian Penal Code Amendment Act, 1896.
„	VII	Amending the Presidency Small Cause Courts Act, 1882.	The Presidency Small Cause Courts Act (1882) Amendment Act, 1896.
„	IX	Amending the Indian Railways Act, 1890 .	The Indian Railways Act (1890) Amendment Act, 1896.
„	XI	Amending the Legal Practitioners Act, 1879 .	The Legal Practitioners Act, 1896.
„	XIII	<i>Amending the Code of Criminal Procedure, 1882.</i>	<i>The Criminal Procedure Code (1882) Amendment Act, 1896.</i>
„	XV	Amending the Glanders and Farcy Act, 1879 .	The Glanders and Farcy Act (1879) Amendment Act, 1896.
5 „	*	* * * * *	* *
1897	I	Amending Act XXXVII of 1850 ( <i>for regulating Inquiries into the behaviour of Public Servants</i> ).	The Public Servants (Inquiries) Act (1850) Amendment Act, 1897.
6 „	XIII	Amending the Indian Stamp Act, 1879 .	The Indian Stamp Act (1879) Amendment Act, 1897.

<sup>1</sup> This Act is now repealed by Act 5 of 1908, Genl. Acts, Vol. VI.<sup>2</sup> This Act is now repealed by Act 16 of 1908, Genl. Acts, Vol. VI.<sup>3</sup> This Act is now repealed by Act 15 of 1903, Genl. Acts, Vol. V.<sup>4</sup> This Act is now repealed by the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.<sup>5</sup> The entry relating to Act 16 of 1896 (to amend to Post Office Act, 1866), was repealed by the Indian Post Office Act, 1898 (Act 6 of 1898), Genl. Acts, Vol. V.<sup>6</sup> This Act is now repealed by the Indian Stamp Act, 1899 (II of 1899), Genl. Acts, Vol. II.

ACT No. XV OF 1897.<sup>1</sup>

[22nd July, 1897.]

V of 1895.  
XIII of  
1889.

An Act to repeal the Cantonments Act Amendment Act, 1895,  
and to amend the <sup>2</sup> Cantonments Act, 1889.

V of 1895.  
XIII of 1889.

WHEREAS it is expedient to repeal the Cantonments Act Amendment Act, 1895, and to amend the <sup>2</sup> Cantonments Act, 1889; It is hereby enacted as follows :—

1. (1) This Act may be called the Cantonments Act, 1897, and  
(2) It shall come into force at once.
2. The Cantonments Act Amendment Act, 1895, is hereby repealed.
3. In section 31 of the Cantonments Act, 1889, for the words “or commanding officer” the words “or commanding, medical or other officer” shall be substituted.

Title and  
commence-  
ment.

Repeal of Act  
V of 1895.  
Amendment  
of section 31  
of Act XIII  
of 1889.

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1897, Pt. V, p. 113, and for Proceedings in Council, *see* *ibid.*, 1897, Pt. VI, pp. 210 and 218.

As being part of Act 13 of 1889, it is in force in Upper Burma (except the Shan States), *see* the Burma Laws Act, 1898 (Act 13 of 1898), Bur. Code.

It has been extended to British Baluchistan by notification under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874), *see* Gazette of India, 1898, Pt. II, p. 48.

<sup>2</sup> *Supra.*

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